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W.P.No.29297 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.29297 of 2024

Anil D Wadhwa

... Petitioner

VS.

1.The Inspector General of Registration,
Santhome, Chennai.

2.The Sub Registrar,
Ambattur Sub Registrar Office,
Ambattur, Chennai.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd Respondent in his Impugned Check Slip order Dt.08/07/2024 in Ref. No. RFL/Ambattur/11/2024 and quash the same and direct the 2nd Respondent to admit and register the Sale Deed Dt.08/07/2024 executed by the Petitioner in favour of Mrs D. Gowthami, in respect of the vacant land bearing Plot No.3, Sriram Nagar Layout, Comprised in S.No.76/1C and 76/4 as per Patta No.12178 comprised in S.N.76/82 of Puthagaram Village, Madhavaram Taluk, Chennai District measuring 2400 Sq.ft.



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For Petitioner : Mr.N.Nagu Sah

For Respondents : Mr.M.Shahjahan
Special Government Pleader

ORDER

By consent of both the learned counsel appearing for the petitioner as well as respondents, this writ petition is disposed of at the admission stage itself.

2. Aggrieved by the impugned check slip in Ref. No. RFL/Ambattur/11/2024, dated 08.07.2024 issued by the 2nd respondent refusing to register the Sale Deed executed by the petitioner in favour of one D.Gowthami, the petitioner has come before this Court.

3. It is the case of the petitioner that the subject property was originally purchased by his father-Doulattram under a Sale Deed dated 06.06.1994 registered as Document No.4331 of 1994 on the file of SRO, Amabttur. During his life time, the petitioner's father executed a Will on 07.04.2019 bequeathing the subject property and other property in favour of



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the petitioner. The Will was probated by the petitioner in O.P.No.639 of 2021 on the file of this Court. Now, the petitioner wants to convey the subject property in favour of one D.Gowthami and executed a Sale Deed on 08.07.2024. When the said Sale Deed was presented for registration before the 2nd respondent, the same was refused registration by the 2nd respondent mainly on the ground that plaintiff's title document number is wrongly mentioned in the Will as Document No.4331/2004 instead of 4331/1994.

4. The learned counsel appearing for the petitioner submits that the property has been properly described in the Will and there is no dispute with regard to the identification of the property. In such circumstances, merely because, the document number is wrongly mentioned in the Will, the 2nd respondent is not justified in rejecting the Sale Deed with direction to the petitioner to rectify the error in the Will. The learned counsel also relied on Section 78 of Indian Succession Act, 1925 in support of his contention.

5. A reading of Probated Will included in the typed-set of papers would suggest that the description of the property has been clearly given as Plot No.3, admeasuring 2400 sq.ft., at Sriram Nagar, Puthagaram Village,



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Chennai. However, while referring to the Sale Deed in favour of the petitioner's father, the document number was wrongly mentioned as 4331/2004 instead of 4331/1994. Citing the said discrepancy, the 2nd respondent refused to register the Sale Deed presented for registration.

6. The subject property has been clearly described in the Will executed by petitioner's father with reference to Plot Number. Therefore, there is no difficulty in identifying the property. Merely because, the document number is wrongly mentioned in the Will executed by petitioner's father, the bequest will not fail in view of Section 78 of the Indian Succession Act, 1925. Now, the 2nd respondent directed the petitioner to rectify the mistake in the Will. After the death of testator, the Will came into force and the same has been probated. Now, it is impossible for the petitioner to rectify the typographical error that had crept in the Will. Therefore, the 2nd respondent is not justified in refusing registration on the ground that there is a typographical error in the Will relied on by the petitioner especially when the property is identifiable with reference to the plot number mentioned in the Will. Therefore, this Court is inclined to allow this writ petition by setting aside the impugned refusal check slip.



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7. The petitioner is directed to represent the document for registration before the 2nd respondent, within a period of two weeks from the date of receipt of copy of this order and the 2nd respondent shall register the same, if it is otherwise in order.

8. With the above directions, the Writ Petition stands allowed. No costs.

14.10.2024

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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To

1. The Inspector General of Registration,
Santhome, Chennai.

2. The Sub Registrar,
Ambattur Sub Registrar Office,
Ambattur, Chennai.



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S.SOUNTHAR, J.

dm

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