



WEB COPY



W.P.No.34298 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.34298 of 2024

D.Soundararajan

... Petitioner

Vs.

The Sub Registrar
Kunnathur Sub Registrar Office,
Kunnathur, Thiruppur District.

...Respondent

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, Calling for the records pertaining to the impugned Check slip No.RFL /Kunnathur / 12/ 2022 dated 09.09.2022 passed by the respondent and quash the same and consequentially issue direction directing the respondent to register the sale deed dated 06.09.2022 presented by the petitioner and pass.

For Petitioner : M/s.R.Marudhachalamurthy

For Respondents : M/s.B.Vijay, AGP.
for sole respondent

ORDER



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The Writ Petition is filed to quash the impugned Refusal Check bearing No.RFL /Kunnathur / 12/ 2022 dated 09.09.2022 passed by the respondent and quash the same and consequentially issue direction directing the respondent to register the sale deed dated 06.09.2022.

2. The impugned Refusal Check Slip has been issued on the ground that the Will dated 29.11.2010 executed in favour of the petitioner was not a registered one and the same has not been probated through Court of law.

3. Heard the learned counsel on either side.

4. The ground for refusal, namely, that the Will is unregistered and has not been probated through a court of law, cannot be sustained for the simple reason that the registration of a Will is not compulsory but optional. Even an unregistered Will is a valid Will, provided it complies with Section 63(3) of the Indian Succession Act and Section 68 of the Evidence Act. Therefore, the order refusing to register the sale deed cannot be sustained. That apart, scrutinizing title to the property does not vest with the Registering Authority but only with a Civil Court if the Will is questioned.

5. Accordingly, the Writ Petition is allowed. The impugned order is



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set aside and the Respondent is directed to register the sale deed dated 06.09.2022 within a period of two weeks from the date of its representation by the petitioner. No costs.

22.11.2024

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1.The Sub Registrar
Kunnathur Sub Registrar Office,
Kunnathur, Thiruppur District.

P.T. ASHA. J.,

(shr)



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