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WP.No.34958 of 2024

In the High Court of Judicature at Madras

Dated : 27.11.2024

Coram :

The Honourable Ms.Justice P.T.ASHA

Writ Petition No.34958 of 2024

R.Jayaprakash

...Petitioner

Vs

The Joint I Sub-Registrar,
(District Registrar Cadre),
Sub-Registrar Office,
Erode District-638003.

...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the entire records relating to the impugned refusal check slip on the file of the respondent bearing Refusal No.RFL/1 Joint Sub-Registrar Erode/ 82/2024 dated 16.10.2024, quash the same and consequently direct the respondent to receive, entertain and register the gift settlement deed dated 16.10.2024 executed by the petitioner in favour of his wife Mrs.Kohila and return the same forthwith to the petitioner within a stipulated time frame as fixed by this Court.

For Petitioner : Mr.R.Prabakar
For Respondent : Mr.S.Shahjahan, SGP



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ORDER

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The petitioner seeks to quash the check slip dated 16.10.2024, in and by which, the respondent had refused to receive and register the gift settlement deed dated 16.10.2024 presented by the petitioner.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader accepting notice for the respondent.

3. The grounds, on which, the impugned refusal check slip has been issued, are as follows :

*"(i) The validity of the Will dated 06.7.2011 mentioned in the gift settlement deed cannot be verified; and
(ii) It is an unregistered Will."*

4. In the considered view of this Court, by raising the above issues, the respondent is conducting a roving inquiry into the title, which jurisdiction is not vested with him. The main factors that are required to be taken into consideration at the time of inquiry into the documents are

*(i) to take note of the execution of the document,
(ii) whether it has been executed by the*



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person, whose name is mentioned in the document,

(iii) the identity of the person executing the document and presenting it and

(iv) in case the document is presented by a power agent, assign or representative, the authority of such person.

Further, the Registering Authority appears to be clueless about the fact that a Will need not be registered.

5. The Registering Authority is empowered to refuse registration under any of the circumstances set out in Section 22A of the Indian Registration Act. In such circumstances, the reasons set out refusing registration do not come within any of the parameters mentioned therein.

6. Hence, the writ petition is allowed, the impugned refusal check slip is set aside and the respondent is directed to register the document presented by the petitioner within two weeks from the date of its representation. No costs.

27.11.2024



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P.T.ASHA,J

RS

To
The Joint I Sub-Registrar,
(District Registrar Cadre),
Sub-Registrar Office,
Erode District-638003.

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