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W.P(MD)No.2123

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2024

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition(MD)No.2123 of 2024

Karthikeyan

... Petitioner

-Vs-

The Sub Registrar,
Office of the Sub Registrar,
Paavur Sathiram,
Tenkasi District.

... Respondent

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned refusal check slip in RFL No. RFL/Paavursathiram/1/2024 and quash the same and consequently, direct the respondent to register the document without insisting for the production of original parent document as well as the questioning the genuineness of the will dated 03.11.2012 within the time that may be stipulated by this Court.

For Petitioner : Mr.D.S.Haroon Rasheed

For Respondent : Mr.S.Shanmugavel
Additional Advocate General

ORDER

This writ petition is filed seeking for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned refusal check slip in



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RFL No. RFL/Paavursathiram/1/2024 and quash the same and consequently, direct the respondent to register the document without insisting for the production of original parent document as well as the questioning the genuineness of the will dated 03.11.2012 within the time that may be stipulated by this Court.

2. The case of the petitioner is that agricultural land in S.Nos.1/6F, 2/1, 333/2A1, 344/1A, 344/1B, 346/10, 346/14, 346/2A1A, 346/8, 346/9, 354/6, 345/7, 334/2 and 361/B situated at Kulasekarapatti, Tenkasi District are all belongs to the petitioner's grandmother, namely, Lakshmi Thai. She blessed with four children, by name, Arunachalam, Muthuraj, Sanjeevi Rajan and Anja Devi. His grandmother had given a separate house property to all her children. Due to which, the petitioner's grandmother had decided to execute a Will in favour of her children. The petitioner is the son of Sanjeevi Rajan. His grandmother has executed an unregistered will in favour of five grandsons. As the one of the grandsons, the petitioner has obtained the third schedule property as cited above survey numbers as per the Will. Likewise, all the other grandsons obtained the various properties in and around the Tenkasi District and the document numbers i.e., 1029/1986, 663/1970, 980/1990, 15/2003, 504/2000, 1029/1988, 2141/2002, 603/1975, 1482/1997, 1977/2005, 285/1992, 2584/2000, 1876/2001, 1526/1994, 416/1986, 122/2001, 2104/2005 and 4114/1986 were allotted to all the grandson. Subsequently, his grandmother died on 25.09.2013. Thereafter, the revenue records mutated in the petitioner's name for the above



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mentioned properties and the patta also issued in favour of the petitioner vide Patta Nos.9487, 2850, 1242 and 9490. Now, the petitioner has decided to execute a settlement deed in favour of his wife. Hence, he presented the document before the respondent and the same was returned by issuing Refusal Check Slip for two reasons that the original parental document is not produced and the genuineness of the Will has to be ascertained. Challenge the said Refusal Check Slip, the present writ petition.

3. According to the petitioner, this Court has consistently held that the Registering Authority cannot insist on production of original title deeds as a matter of pre-condition for registration of the documents.

4. The learned counsel for the petitioner would reiterate the above facts and also would draw the attention of this Court to the following decisions of this Court, which read as under:-

i) **2011-2-L.W.648 (K.S.Vijayendran Vs. The Inspector General of Registration, Chennai, and others)**. The observation of the learned Single Judge of this Court reads as under:-

“10.None of the provisions of the Act or the Rules contemplate the Registrar to require the party appearing before him for presenting document to produce the original title deeds relating to the property so as to satisfy himself about the ownership of the executant in respect of the property sought to be executed.”



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ii) **2018 SCC OnLine Mad 3898 (C.Moorthy Vs. Sub Registrar, Aruppukkottai)**. In the above decision, yet another learned Single Judge of this Court has clearly held as under:-

“6.The learned Counsel for the respondent fairly conceded that the legal position reiterated by this Court in several judgments have not been followed and that the Registering Officer in this case has no authority to return the document for production of original document of title based on the circular, as the same circular was earlier considered by this Court in the judgment cited by the learned Counsel for the petitioner. As held by this Court earlier, there is no provision in the Registration Act, 1908 of the Tamil Nadu Registration Rules, 1983, which confers power to the Registering Officers to insist production of original parental document. The Executive orders cannot be issued contrary to Rules framed in exercise of power conferred any statute. In this case production of parent document is not possible without redemption of mortgage.”

5. The learned counsel therefore would submit that the issue as to whether the original title deeds should be produced for registration by the party concerned or whether the Registering Authority can insist on production of original title deeds as a pre-condition for registration is no more *res-integra*.

6. The learned Additional Government Pleader appearing for the respondent would submit that even assuming that the executor is a genuine person and



producing fake documents, it is open to the Sub Registrar to refuse to register the document.

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7. It is seen that there is no provision in the Registration Act 1908 and the Tamil Nadu Registration Rule, 1983, which confers power to registering officers to insist production of original parent document. The other question in respect of the genuineness of Will, the respondent is not having any valid ground to ask the question about the genuineness because already the revenue records are mutated in the petitioner's name. Hence, this Court is in agreement with the submissions made on behalf of the petitioner in this regard.

8. In the above circumstances, the impugned refusal slip in RFL No. RFL/Paavursathiram/1/2024 is hereby set aside. The respondent is directed to register the documents presented by the petitioner. It is seen that the document numbers i.e., 1029/1986, 663/1970, 980/1990, 15/2003, 504/2000, 1029/1988, 2141/2002, 603/1975, 1482/1997, 1977/2005, 285/1992, 2584/2000, 1876/2001, 1526/1994, 416/1986, 122/2001, 2104/2005 and 4114/1986, on the file of the respondent belongs to the petitioner's grandmother Lakshmi Thai in which various survey number mentioned and the same was allotted to all the grandsons. All the above properties executed in favour of the grandson by the Lakshmi Thai by the way of unregistered Will, dated 03.11.2012. Therefore, the petitioner is directed to



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produce certified copy of all the above documents and revenue records viz., patta

which stands in the name of the petitioner and Will, dated 03.11.2012.

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9.The Writ Petition stands allowed, accordingly. No costs.

NCC : Yes/No
Index : Yes/No
Internet : Yes
skn

13.02.2024

To

The Sub Registrar,
Office of the Sub Registrar,
Paavur Sathiram,
Tenkasi District.



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V.BHAVANI SUBBAROYAN, J.

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