



W.P.(MD)No.2628 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED **08.02.2024**

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THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**

W.P(MD)No.2628 of 2024

S.Malarkodi

...Petitioner

/Vs./

1.The District Registrar,
District Registrar Office,
Court Compound,
Cantonment, Tiruchirappalli – 1.

2.The Sub Registrar Joint III,
Sub Registrar Joint III Office,
Town Hall, Tiruchirappalli-2.

...Respondents

Prayer: Writ Petition - filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned Refusal Check Slip in Refusal Number 8/Book 2/2023 dated 04.07.2023 passed by the 2nd respondent herein and quash the same as illegal and further direct the 2nd respondent herein to complete the registration of the pending Doc.No.33 of 2023 on the file of the 2nd respondent within a time stipulated by this Court.

For Petitioner : Mr.S.Vashik Ali
for Mr.R.M.Sivakumar

For Respondents : Mr.C.Satheesh
Government Advocate



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4. The learned counsel appearing for the petitioner draws attention of this Court to Section 57 of the Indian Succession Act, 1925, which gives exception for grant of probate of a will and therefore, the impugned refusal check slip is non application of mind. He also relies upon the orders passed by this Court in WP.No.12671 of 2023 dated 03.07.2023 and WP(MD)No.5760 of 2023 dated 16.03.2023.

5. The learned Government Advocate appearing for the respondents submits that the respondents could not register the document, since there is no probate.

6. This Court is of the considered view that probation of will is not compulsory except in the city of Chennai and thus, the Sub Registrar ought not to have refused the registration merely on the ground that the will was not probated. The issue relating to the unregistered will or probation is beyond the scope of the powers conferred on the registering authority under the provisions of the Registration Act, 1908.

7. Considering the facts and circumstances of this case, the impugned refusal check slip in Refusal Number 8/Book 2/2023 dated 04.07.2023 passed



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by the second respondent is liable to be quashed, as the powers conferred for the Sub Registrars is very limited, which is beyond the scope of the powers conferred under the provisions of the Registration Act, 1908 and as the probate is not compulsory, except the city of Chennai. The Sub Registrar cannot refuse to register any documents on the ground that the will is not probate and accordingly, the impugned refusal check slip in Refusal Number 8/Book 2/2023 dated 04.07.2023 passed by the second respondent is set aside. The respondents are directed to proceed with the registration of the document submitted by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

8. With the above observations, this writ petition is allowed accordingly.

No costs.

08.02.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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Sub Registrar Joint III Office,
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V.BHAVANI SUBBAROYAN, J.

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Order made in
W.P(MD)No.2628 of 2024

Dated:
08.02.2024