



W.P.(MD)No.12965 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2024

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.12965 of 2023

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... Petitioner

Vs.

The Joint Sub Registrar No.II,
Registration Department,
Dindigul.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent herein to register the Settlement Deed presented by the Petitioner in favour of his wife in respect of landed property comprised in Survey Nos.623/5E5, 613/3, 219/4, 219/5 B, 219/6, 219/14, 365/2, 308/10 situated at A.Vellodu Village, Dindigul East Taluk, Dindigul District by considering the representation dated 24.04.2023 within the time stipulated by this Court.

For Petitioner : Mr.J.Lawrance

For Respondent : Mr.P.Subbaraj,
Spl. Government Pleader.

ORDER

This Writ Petition has been filed for directing the respondent to register the settlement deed presented by the petitioner in favour of his wife by considering the his representation dated 24.04.2023.



W.P.(MD)No.12965 of 2023

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2.It is the case of the petitioner that the subject property is an ancestral property and his father had executed an unregistered Will dated 01.05.2016 in favour of the petitioner. The petitioner's father passed away on 30.01.2017. Thereafter, the petitioner became absolute owner of the subject property. The petitioner approached the respondent to execute a settlement deed in favour of his wife in the month of April, 2023. The respondent orally informed the petitioner that the settlement deed cannot be registered on the ground that the Will had not been registered. Hence, he sent a representation dated 24.04.2023 to register the said settlement deed. Since no action was not taken, the petitioner has filed the present writ petition.

3.Heard learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondent and perused the materials available on record.

4.The present issue has already been settled by this Court in ***The Federal Bank Limited v. Sub-Registrar, Pollachi & Others***, in ***W.P.No.2758 of 2023, dated 08.02.2023***, wherein this Court held that insisting on original document is not at all required any further. Further, whether the Will is registered or not is not the concern of the Sub-Registrar to go into the issue. The said order has



W.P.(MD)No.12965 of 2023

been followed by a Division Bench of this Court in the case of ***M. Ariyanatchi v Inspector General*** made in ***W.A.(MD).No. 856 of 2023, dated 27.06.2023***, wherein, Division Bench of this Court has held that, for instance, the original document is held by one co-owner, the Sub-Registrar can always take an undertaking or a declaration in the form of an affidavit from the vendors to the effect that the original document is with the said person and register the document. Hence, the Sub-Registrar cannot refuse to register a document merely because the original parent deed has not been produced.

5.In this view of the matter, the petitioner is permitted to present the document in question before the respondent. As and when, the petitioner presents the document, it shall be registered by the respondent, if it is otherwise in order.

6.The writ petition is allowed accordingly. No costs.

10.09.2024

NCC :Yes/no
Index :Yes/no
Internet :Yes/no
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To:

The Joint Sub Registrar No.II,
Registration Department,
Dindigul.



W.P.(MD)No.12965 of 2023

N.SATHISH KUMAR, J.

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W.P.(MD)No.12965 of 2023

10.09.2024