



W.P.(MD)No.13244 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.13244 of 2023

A.Arokiyasamy

... Petitioner

Vs.

The Sub-Registrar,
Vedasandur,
Dindigul 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, calling for the records relating to the impugned refusal check slip in RFL/Vedasandur/63/2023 dated 25.04.2023 and quash the same and consequently direct the respondent to register the Will dated 25.04.2023 executed by the petitioner without insisting the original document within the time fixed by this Court.

For Petitioner : Mr.B.Azhagesh

For Respondent : Mr.M.Siddharthan,
Addl. Govt. Pleader



W.P.(MD)No.13244 of 2023

ORDER

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This Writ Petition has been filed for issuance of a Certiorarified Mandamus, calling for the records relating to the impugned refusal check slip in RFL/Vedasandur/63/2023 dated 25.04.2023 and quash the same and consequently direct the respondent to register the Will dated 25.04.2023 executed by the petitioner without insisting the original document within the time fixed by this Court.

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

3. It is the grievance of the Writ Petitioner that when the petitioner presented the Will executed in favour of his son-in-law, the same was refused to be registered on the ground that the original document has not been produced. Challenging the same, the present Writ Petition has been filed.



W.P.(MD)No.13244 of 2023

4. It is the contention of the petitioner that the original sale deed is marked as Ex.A5 in the suit in O.S.No.72 of 2005 and the second appeal in S.A. (MD)No.168 of 2022 arising out of the said suit is still pending before this Court. Hence, the petitioner is not able to produce the original sale deed before the registering authorities.

5. It is relevant note that this Court in the case of ***Federal Bank v Sub Registrar***, reported in **2023 (2) CTC 289** has held that Sub Rule XX of Rule 162 has no statutory backing. The said order has 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. That apart, as far as the Will is concerned, it will give effect to only after the death of a person and there is no immediate transfer of any property. In such view of the matter, the impugned refusal slip has to be set aside.



W.P.(MD)No.13244 of 2023

6. Accordingly, this Writ Petition is allowed and the impugned refusal slip of the respondent dated 25.04.2023 stands quashed and the respondent is directed to register the Will dated 25.04.2023, within a period of fifteen days from the date of receipt of a copy of this order. There shall be no order as to costs.

11.09.2024

NCC : Yes/No
Index : Yes/No

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W.P.(MD)No.13244 of 2023

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To
The Sub-Registrar,
Vedasandur,
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WEB COPY



W.P.(MD)No.13244 of 2023

N.SATHISH KUMAR, J.

vsm

W.P.(MD)No.13244 of 2023

11.09.2024