



W.P.(MD)No.17237 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 13.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.17237 of 2022

Kuduva T Kasi Viswanathan

... Petitioner

Vs.

The Sub-Registrar,
Paramakudi,
Ramanathapuram 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 of the impugned refusal check slip in RFL/Paramakudi/15/2022 dated 13.07.2022 on the file of the respondent and quash the same and further directing the respondent to receive the settlement deed dated 11.07.2022 executed by the petitioner in favour of his sons Kuduva K.Premkumar and Kuduva K.Manivannan in respect of the property bearing Door No.3/105 and situated at S.Nos.236, 237, T.S.No.82/1, Ward C, Block 12, Eswaran Temple Street, Yemuneswaram Town, Paramakudi Taluk, Ramnad District.



W.P.(MD)No.17237 of 2022

For Petitioner : Mr.Selva Aditya
for Mr.G.Prabhu Rajadurai

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

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorari Mandamus, calling for the records of the impugned refusal check slip in RFL/Paramakudi/15/2022 dated 13.07.2022 on the file of the respondent and quash the same and further directing the respondent to receive the settlement deed dated 11.07.2022 executed by the petitioner in favour of his sons Kuduva K.Premkumar and Kuduva K.Manivannan in respect of the property bearing Door No.3/105 and situated at S.Nos.236, 237, T.S.No.82/1, Ward C, Block 12, Eswaran Temple Street, Yemuneswaram Town, Paramakudi Taluk, Ramnad District.

2. It is the case of the Writ Petitioner that the subject property belongs to his paternal grandmother and she purchased the same through a registered sale deed dated 23.02.1972. The petitioner's father is the only son to his grandmother. The petitioner's grandmother executed an unregistered Will dated 11.10.2001, in



W.P.(MD)No.17237 of 2022

favour of the petitioner. After her death, the petitioner has become absolute owner of the subject property. Thereafter, the petitioner executed a settlement deed dated 11.07.2022 in favour of his sons. When the petitioner presented the settlement deed for registration, the same was refused to be registered on the ground that the signature found in the Will of the testatrix is doubtful and the Sub Registrar also entertained a doubt about the unregistered Will. Further, the patta was also not stood in the name of the petitioner. Challenging the same, the petitioner has filed this Writ Petition.

3. The learned Special Government Pleader appearing for the respondent would submit that earlier this Court by order dated 05.01.2022 in W.P.(MD)No. 19821 of 2021, directed the petitioner in that writ petition to get patta and thereafter, go back to present the document for registration. Therefore, following the said order, the impugned order has been passed. Hence, opposed this Writ Petition.

4. Heard the submissions made by the learned counsel appearing on either side and perused the materials available on record.



W.P.(MD)No.17237 of 2022

5. Section 5 of the Patta Pass Book Act, 1983 dealing with the land in question particularly, the agricultural land, wherein patta pass book normally will be issued. Whereas, the subject property is only a house site. Therefore, the aforesaid order relied on by the respondent cannot be applied to the facts of the present case. Be that as it may. It is relevant to note that the Sub Registrar has no power to decide the issue whether the Will is valid or not. The Will can be challenged only by the family members and a doubt can be entertained by the family members. When there is no petition whatsoever in this regard, the Sub Registrar going into the merits of the Will does not arise at all. Further this is only a house site. Therefore, the condition that the name of the petitioner should include in the revenue records does not arise at all. The property was originally in the name of the petitioner's grandmother and she died recently. Therefore, naturally, the revenue records would be in her name only.

6. In such view of the matter, mere non-inclusion of the name of the petitioner in the patta will not take away the right of the petitioner. Therefore, the impugned order stands quashed. There is a direction to the respondent to register the settlement deed dated 11.07.2022 within a period of 7 days from the date of receipt of a copy of this order. If any person is aggrieved for registration of the



W.P.(MD)No.17237 of 2022

said document viz., the family members, it is for them to challenge the alleged show cause Will in the civil Court and not before the Sub Registrar.

7. Accordingly, this Writ Petition is allowed. There shall be no order as to costs.

13.08.2024

NCC : Yes/No
Index : Yes/No
vsm

To

The Sub-Registrar,
Paramakudi,
Ramanathapuram District.



WEB COPY



W.P.(MD)No.17237 of 2022

N.SATHISH KUMAR, J.

vsm

W.P.(MD)No.17237 of 2022

13.08.2024