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W.P.(MD) No.20588 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD) No.20588 2024

Veerumallammal

...Petitioner

-VS-

1.The Inspector General of Registration,
Door No.100, Santhome High Road,
Foreshore Estate, Pattinapakkam,
Chennai-600 028.

2.The Sub Registrar,
Tallakulam,
Madurai District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus, to direct the second respondent to register the Will dated 01.08.2024 executed by the petitioner without insisting for presentation of the original title deeds dated 17.02.1989 bearing Document No.431 of 1989 on the file of the Sub-Registrar, Chokkikulam and 30.10.2000 bearing Document No.393 of 2001 on the file of the second respondent.

For Petitioner	: Mr.J.Barathan
For Respondents	: Mr.M.Siddharthan
	Additional Government Pleader



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ORDER

This writ petition has been filed to direct the second respondent to register the Will dated 01.08.2024 executed by the petitioner without insisting for presentation of the original title deeds, dated 17.02.1989 bearing Document No.431 of 1989 on the file of the Sub-Registrar, Chokkikulam and 30.10.2000 bearing Document No.393 of 2001 on the file of the second respondent.

2.Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3.The petitioner is a retired Teacher. She had four daughters. The petitioner due to her old age and age related illness decided to settle her properties in favour of her daughters. She had also executed a Will dated 01.08.2024 in favour of her three daughters. When she presented the same for registration, the same was refused to be registered for want of original parent documents. Aggrieved by the same, the petitioner has filed this writ petition.



4.The learned counsel for the petitioner submitted that all the original documents of the petitioner's property are in the custody of the petitioner's husband. Since, the husband of the petitioner is not interested in settling the properties in favour his daughters, he refused to hand over the original documents to the petitioner. Further, he submitted that the original parent documents are not at all necessary to register any document. Hence, he prays for necessary relief.

5.The issue raised in this writ petition is no longer *res-integra*, in view of the judgment rendered by this Court in the case of ***Subramani vs. the Sub Registrar and others*** [WP.No.11056 of 2024, dated 26.04.2024], in which it has been held as follows:

“c. With regard to the refusal on the absence of parent document, this Court in the case of K.S. Vijayendran v. The Inspector General of Registration reported in (2011) 2 LW 648, Lakshmi Ammal v. The Sub Registrar, Villivakkam reported in 2015 SCC OnLine Mad 5868 and C. Moorthy v. Sub Registrar Aruppukottai reported in 2018 SCC OnLine Mad 3898, it was held that absence of a parent document is no ground to refuse registration. Pursuant to these judgments, sub-rule XX was introduced in Rule 162 authorizing the Sub-Registrar to refuse registration for non-production of the original title deed as required by Rule 55-A. 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



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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.

Considering the above settled position of law, the Registrar cannot refuse to register the document merely on the ground of non production of parent document.”

In the light of the above settled provision of law, the impugned refusal slip cannot be sustained in the eye of law.

6.Accordingly, this writ petition is allowed and the second respondent is directed to register the Will, dated 01.08.2024 executed by the petitioner within a period of seven days from the date of receipt of a copy of this order. No costs.

29.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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N.SATHISH KUMAR, J.

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