



W.P.(MD) No.21036 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD) No.21036 2024

Raja Paul

...Petitioner

-VS-

The Sub Registrar,
O/o.Sub Registrar,
Panakudi,
Tirunelveli District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus, calling for the records relating to the impugned refusal check-slip dated 27.08.2024 in refusal number.RFL/Panakudi/50/2024 passed by the respondent and quash the same and consequently direct the respondent to register the document of settlement deed executed by the petitioner in favour of his son Muthu Suresh in respect of property in Survey No. 1453/1C3 measuring an extent of 3.27 cents at Panakudi Village, Rathapuram Taluk, Tirunelveli District.

For Petitioner	: Mr.T.Antony Arulraj
For Respondents	: Mr.C.Satheesh
	Government Advocate



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ORDER

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Mr.C.Satheesh, learned Government Advocate, takes notice for the respondents. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner has filed this writ petition challenging the refusal check slip issued by the respondent dated 27.08.2024 and to direct the respondent to register the document executed by the petitioner with regard to the subject property.

3.The contention of the petitioner is that the petitioner is in possession and enjoyment of the subject property based on the Will executed in his favour by his mother. Based on the same, the petitioner had executed a settlement deed in favour of his son. When he presented the said deed for registration, the same was refused to be registered on the ground that the Will executed in favour of the petitioner was not registered. Challenging the same, the petitioner has filed this writ petition.



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4. At the outset, the order impugned in this writ petition cannot be sustained in the eye of law. It is not the concern of the Sub Registrar to go into the validity of the Will. The same has to be challenged only by the family members. As long as the Will is not disputed and it was already considered by the Civil Court in a partition suit filed by the parties, it cannot be stated that the unregistered Will cannot be used for registration of a document.

5. The registration of the Will is only optional. The property can be bequeathed by a Will and the Will can be either registered or unregistered one. Since the Will being a document, which also convey title of the property after the death of the testator, the authority cannot insist that the Will has to be a registered one. Such a finding is nothing but perverse and non application of mind. In such view of the matter, the Order impugned has to be quashed.

6. Accordingly, this Writ Petition is allowed and the impugned order dated 27.08.2024 in refusal number.RFL/Panakudi/50/2024 passed by the respondent stands quashed. The respondent is directed to register



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the settlement deed executed by the petitioner, within a period of one week from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. No costs.

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Index : Yes / No
Internet : Yes / No
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To

The Sub Registrar,
O/o.Sub Registrar,
Panakudi,
Tirunelveli District.



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N.SATHISH KUMAR, J.

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