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W.P.No. 2667 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.01.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.2667 of 2025

V.Balusami

.... Petitioner

Vs

The Sub Registrar
Office of the Sub Registrar, Palladam
Palladam Taluk
Tiruppur.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings vide Refusal Check Slip having reference No.RFL/Palladam/4/2025 dated 20.01.2025 on the file of respondent and quash the same and consequently direct the respondent to register the settlement deed dated 20.01.2025 presented by the writ petitioner for registration and release the document to the writ petitioner within the time frame to be stipulated by this Court.



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For Petitioner : Mr.R.Bharath Kumar
For Respondent : Mr. P.Harish
Government Advocate

ORDER

Challenging the refusal check slip in RFL/Palladam/4/2025 dated 20.01.2025 issued by the respondent against the registration of settlement deed presented by him, the petitioner is before this Court.

2. The case of the petitioner is that he along with his father and his brother as plaintiffs had instituted a suit for partition in O.S.No.18/2016 on the file of II Additional District and Sessions Court, Tiruppur, and by judgment and decree of the trial Court dated 14.03.2017, each of the plaintiffs were allotted 1/8 share in the suit schedule property. His father had executed an unregistered Will on 24.10.2017 as concerning his 1/8 share in the subject property in favour of the petitioner and his brother, pursuant to which, the petitioner was entitled to 1/16 share. Therefore, the petitioner was entitled to 3/16 share in entirety. Subsequently, he executed a settlement deed dated



20.01.2015 in favour of his wife Mrs.Indrani, and when the petitioner presented the same for registration before the respondent, it came to be dismissed vide impugned Refusal Check Slip, on the ground that the Will dated 24.10.2017 was not registered and therefore, the said unregistered Will had to be probated before the competent Civil Court. The petitioner was also informed to present the settlement deed for registration, only after probating the unregistered Will before the Competent Court.

3. Heard the learned counsel for the petitioner and perused the records.

4. In *Ramayee Vs The Sub Registrar and others - (2020 (6) CTC 697)*, the learned Judge has discussed the role of the registering authorities, who while considering a document for registration, has to verify its execution, identity of the executant or the agent/ representative assigned etc., and held that the registering authority cannot go into the question of title. The grounds of refusal are also specified in Section 22-A of the Registration Act. Further the registration of the Will is not mandatory and an unregistered Will has the same effect of transferring title upon the legatee as in the case of a registered Will. The probate of the Will is also not required as neither the property nor



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the Will is executed within the Ordinary Original Civil jurisdiction of this Court (Section 57 of the Indian Succession Act).

5. Therefore, for the aforesaid reasons, the impugned refusal check slip cannot be sustained and accordingly, the writ petition is allowed. The impugned refusal check slip is set aside. The second respondent is directed to register the Settlement Deed dated 20.01.2025 within a period of two (2) weeks from the date of representation by the petitioner. No costs.

29.01.2025

Index : Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
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To:

The Sub Registrar
Office of the Sub Registrar, Palladam
Palladam Taluk
Tiruppur.



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P.T.ASHA, J.,

ds

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