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WP.No.7150 of 2023



DATED: 16.06.2025

CORAM

THE HONOURABLE MRS JUSTICE N. MALA

WP.No.7150 of 2023

and

WMP.No.7215 of 2023

Minor T.Sidharth,
Rep. by his Father and natural guardian
T.Shivashankar,
Plot No.132, Flat F2, first Floor,
NEST BLISS, Alamelumangapuram,
Sholinganallur, Chennai-600 119.

...Petitioner

Vs

1.The Corporation of Greater Chennai,
Rep. by its Commissioner,
Ripon Buildings, Chennai.

2.The Zonal Officer
Corporation of Greater Chennai,
Zone 15, 120 Rajiv Gandhi Road,
Sholinganallur, Chennai-600 119.

3.The Assistant Revenue Officer,
Corporation of Greater Chennai,
Zone 15 120, Rajiv Gandhi Road,
Sholinganallur, Chennai-600 119.

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus, calling for records in proceeding bearing reference Ma.A.15 Va.Thu.Na.Ka.No.0144/2021, dated 24.03.2021 on the file of the third respondent and quash the same and consequently direct the third respondent to mutate the name of petitioner in the property tax record relating to the property bearing Flat No.F2, Plot No.132, First Floor, Nest Bliss, Alamelumangapuram, Sholinganallur, Chennai-600 119 and pass such further orders.

For Petitioner : Mr.R.S.Raveendhren

For Respondents : Mr.E.C.Ramesh,
Standing Counsel
For R1 To R3

ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for records in proceeding bearing reference Ma.A.15 Va.Thu.Na.Ka.No.0144/2021, dated 24.03.2021 on the file of the third respondent and quash the same and consequently directing the third respondent



to mutate the name of the petitioner in the property tax record relating to the property bearing Flat No.F2, Plot No.132, First Floor, Nest Bliss, Alamelumangapuram, Sholinganallur, Chennai-600 119.

2.The petitioner's paternal grandmother, T. Usha Rani, purchased a flat under a Deed of Sale (Document No. 1963 of 2018), registered at the SRO, Neelankarai, and subsequently entered into a construction agreement with a builder. On 01.04.2018, she executed a Will bequeathing the flat to her grandson, the petitioner, through her second son, T. Shivashankar. She passed away on 12.05.2019. A legal heirship certificate was obtained on 01.09.2019, followed by a joint affidavit executed by the legal heirs on 09.09.2019.

3. On 22.01.2021, the petitioner's representative submitted an application for the name transfer (mutation) of the flat based on the Will. However, the Third Respondent rejected the request by the impugned order dated 24.03.2021, stating that mutation could be effected only if the Will is registered. Aggrieved by this order, the petitioner has filed the present writ petition challenging its



validity.

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4. A counter affidavit was filed by the 3rd respondent stating that the Will was neither registered nor probated in the name of Thiruveedhula Sidharth. It was further stated that, in accordance with the Transfer of Property Act, the Will must be registered in the name of the concerned individual, and alternatively, a Gift Deed or Settlement Deed should be executed in favour of Thiruveedhula Sidharth. Therefore, the petitioner's representation was rejected by order dated 24.03.2021, bearing reference No. MA.Z.O.15.RDC.S/0144/2021. The respondents prayed for the dismissal of the writ petition as meritless.

5. Learned counsel appearing for the petitioner contends that the impugned order dated 24.03.2021 is illegal and contrary to law. It is submitted that the registration of a Will is optional under Section 18(e) of the Registration Act, 1908, and not a mandatory legal requirement for its validity. The petitioner further submits that the Will in question was duly executed and attested by two witnesses, in compliance with all legal



formalities. Additionally, there is no objection from the legal heirs, who have executed a joint affidavit confirming their consent for the mutation.

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Therefore, the petitioner contends that the Third Respondent's insistence on a registered Will is without legal basis, as mutation based on an unregistered Will is legally permissible. Hence, the present writ petition has to be allowed.

6. The Standing Counsel for the respondents reiterated the submissions made in the counter affidavit.

7. Heard both sides and perused the materials available on record.

8. Section 18 of the Tamil Nadu Registration Act reads as follows:

"18. Documents of which registration is optional.

– Any of the following documents may be registered under this Act, namely,

(a) instruments (other than instruments of gifts and wills) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest whether vested or contingent, of a value less than one hundred rupees, to or in immovable property

(b) instruments acknowledging the receipt of payment of



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any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest;

(c)leases of immovable property for any term not exceeding one year, and leases exempted under section 17;

(cc)[instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immovable property;]

(d) instruments (other than wills) which purport or operate to create, declare, assign, limit or extinguish any right, title or interest to or in movable property;

(e)wills; and

(f) all other documents not required by section 17 to be registered.

9. The Hon'ble Supreme Court of India in the judgment reported in AIR 1954

SC 280 (Ishwardeo Narain Singh Vs. Smt.Kamta Devi and others), held as

follows:

4. The High Court had relied on the fact that the Will was not registered or deposited with District Registrar. There is nothing in law which requires the registration of a Will and Wills are in a majority of cases not registered at all. To draw any interference against the genuineness of the Will on the ground of its non-registration appears to us to be wholly unwarranted.

10. Therefore, the insistence on a registered Will is without any legal basis since Section 18(e), clearly stipulates that a Will is not a compulsorily



registerable document. Further the Hon'ble Supreme Court in the aforesaid judgment has clearly spelt out that non-registration of a Will, does not effect its genuineness. In view of the factual matrix of the case, the statutory provision of Section 18 (e) of the Registration Act and the ratio laid down by the Hon'ble Supreme Court of India, the impugned proceeding bearing reference Ma.A.15.Va.Thu.Na.Ka.No.0144/2021, dated 24.03.2021 passed by the 3rd respondent is unsustainable and hence is quashed. This Court is inclined to issue the following directions:-

a) The petitioner is directed to give a fresh representation to the 3rd respondent along with a copy of the legal heirship certificate dated 01.09.2019, the unregistered Will and a fresh joint affidavit executed by the legal heirs, within a period of three weeks from the date of receipt of a copy of this order.

b) On receipt of such representation along with the aforesaid documents, the 3rd respondent is directed to consider and pass orders on merits and in accordance with law, within a period of six (6) weeks thereafter.



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11. In the result, the writ petition stands disposed of with the above observations and directions. No costs. Consequently, connected miscellaneous petition is closed.

16.06.2025

dpq/cda

Index : Yes /No

Speaking Order : Yes/No



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N. MALA, J.

dpq/cda

To

1.The Commissioner,
Corporation of Greater Chennai,
Ripon Buildings, Chennai.

2.The Zonal Officer
Corporation of Greater Chennai,
Zone 15, 120 Rajiv Gandhi Road,
Sholinganallur, Chennai-600 119.

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