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W.P.No.20593 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.20593 of 2025

Eswari

... Petitioner

Vs.

1. The Inspector General of Registration,
Office of the Inspector General of Registration,
Santhome High Road,
Chennai.
2. The District Registrar,
Office of the District Registrar Office,
Erode District.
3. The Sub Registrar,
Sub Registrar Office,
Bhavani,
Erode District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorarified Mandamus, to call for the



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records pertaining to the impugned refusal check slip No.RFL/Bhavani/51/2025 dated 15.05.2025 issued by the third respondent and quash the same as illegal and consequently directing the third respondent to accept and register the settlement deed dated 28.03.2025 presented by the petitioner.

For Petitioner : Ms.S.Sengkodi

For Respondents : Mr.U.Baranidharan
Special Government Pleader

O R D E R

The present writ petition is filed challenging the impugned refusal check slip issued by third respondent dated 15.05.2025, refusing to register the settlement deed.

2. By consent of learned counsel on both sides, this writ petition is taken up for final disposal at the admission stage itself.

3. It is submitted by learned counsel for petitioner that the settlement deed was refused to be registered on the premise that the Will is



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not registered and secondly, there is nothing to indicate that this is the last Will. Both the reasons would not constitute valid grounds for Registering Authority to refuse registration. In this regard, learned counsel for petitioner would place reliance upon the order of this Court in W.P.16999 of 2020 dated 03.12.2020. The relevant portion of the order dated 03.12.2020 is extracted hereunder:

"5. In the considered view of this Court, a Will does not get a special status by registering the same. Admittedly, it is a document which need not be registered and no law mandates such registration. The law on this issue is well settled and it has been held that just because the Will is registered, reliance cannot be placed on the same, unless it is proved in the manner indicated under the Evidence Act.

6. In the present case, the respondent has insisted for getting a probate with regard to the Will executed in favour of the petitioner. Insofar as the probate is concerned, the same becomes mandatory only when it attracts the provisions of Section 213 of the Indian Succession Act. The property in question is situated at Kancheepuram District and the Will has also



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been executed at Kancheepuram District and therefore, the Will in question does not fall under the requirements of Section 213 of the Indian Succession Act and it does not require a probate for the purpose of acting upon this Will.

7.The petitioner is claiming the right over the subject property by virtue of the Will executed by her husband. She wants to settle the property in favour of one of her sons. Therefore, the respondent can always act upon the Will and should have taken into consideration the fact that the mother is settling the property in favour of one of her sons and there is no third party, who is getting into the transaction. If ultimately the other children of the petitioner are disputing the validity of the Will, they can always approach the competent Civil Court and put the Will to test. Till that happens, the Will is a valid document for all purposes and it can be acted upon.

8.In view of the above discussion, this Court is inclined to interfere with the refusal check slip issued by the respondent and accordingly, the same is hereby quashed. The respondent is directed to entertain the settlement deed dated 02.11.2020 presented by the



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petitioner and register the same, if it is otherwise in order. It goes without saying that necessary stamp duty and registration fee will have to be paid, at the time of registration, if not already paid. The document shall be returned back to the petitioner after registration.

9.This writ petition is allowed with the above directions. No costs."

4. Further in yet another decision in W.P.No.14688 of 2024 dated 07.06.2024, this Court has held as under

"4. The reasons assigned for refusal for registering the Settlement Deed are to the effect that there is no evidence to show that the will executed by the petitioner's father is his last will and the mortgage of the year 1975, is in existence. As this very order is against fundamental and substantive law of the Country, this Court is of the view that no counter is required and the order can be interfered with for the administration of justice. It is not the duty of the Registrar to find out whether this is the last will of the Testator and only the family members are competent to challenge any will executed by any member of the family. That apart, even



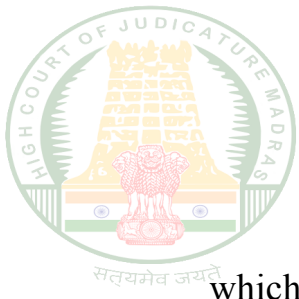
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*assuming that the mortgage is in existence, the same is not a bar for subsequent transfer and even if any transfer takes place, such transfer is always subject to the mortgage, which issue has already been decided by this Court in **N. Ramayee v Sub-Registrar [(2020) 6 CTC 697]**. The same view is also reiterated in **G.Rajasulochana Vs. The Inspector General of Registration and Others (W.P.No.29706 of 2022 decided on 16.04.2024 and so also in Subramani Vs The Sub Registrar, Rasipuram and Another (W.P.No.11056 of 2024 decided on 26.04.2024).**"*

5. In the light of the above discussion, this Court is inclined to interfere with the impugned refusal check slip issued by the third respondent dated 15.05.2025 and accordingly, the same is hereby set aside. Petitioner would re-present the documents to the respondents and on re-presentation, respondents shall register the settlement deed, if it is otherwise in order. If for any reason, the Registering Authority refuses to register the settlement deed, he shall assign reasons in the refusal slip,



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which was agreed to by both learned counsel for petitioner as well as respondents.

6. In the result, this Writ Petition stands allowed. However, there shall be no orders to costs.

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NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

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To

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2. The District Registrar,
Office of the District Registrar Office,
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MOHAMMED SHAFFIQ, J.

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