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W.P.No.39589 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2025

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.No.39589 of 2024

N.R.Pradeep

...Petitioner

Vs

The Sub-Registrar,
Joint II Sub Registrar Office,
Jail Hill, Taluk Office Compound
Ooty – 643 001.

...Respondent

PRAYER :-Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Refusal Check Slip in Refusal No.RFL/Udhagamandalam-Joint/45/2024 by the respondent dated 15.11.2024 and quash the same and consequently direct the respondent to register and release the settlement deed dated 15.11.2024 presented by the petitioner.

For Petitioner : Mr.Thiyagarajan B

For Respondent : Mr.C.Sathish
Government Advocate

ORDER

Challenging the refusal check slip issued by the respondent against the registration of a settlement deed dated 15.11.2024, the petitioner is before this Court.



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2.It is the contention of the petitioner that his mother Yasodha Raman had executed a Will dated 07.09.2022, bequeathing her properties to the petitioner. The petitioner's mother had passed away on 22.05.2023 leaving the petitioner and his two brothers as the surviving legal heirs. It is his further contention that the said Will excluded the petitioner's elder brothers and designated the petitioner as the sole beneficiary of the subject properties. It is further submitted that as per Section 57 and Schedule III of the Indian Succession Act, 1925, probate is not mandatory for properties outside the ordinary original civil jurisdictions of Chennai, Kolkatta and Mumbai. However, the respondent refused to register the settlement deed on the ground of want of probate. Aggrieved by the same, petitioner is before this Court.

3. Heard the learned counsels on the either side and perused the records. The learned Government Advocate takes notice on behalf of respondent.

4. The reason for the refusal is that the Will has not been probated. The Will in question has been executed in Udhagamandalam, Nilgiris and the property which is the subject matter of the Will is situate at



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Udhagamandalam. Neither is any part of the properties situate nor has the execution of the Will taken place in Chennai “Madras”. It is only in cases of a Will being executed within the jurisdiction of Chennai “Madras” or where properties are situate within the aforesaid place that a probate of the Will is contemplated . Therefore, the very reason why the registration has been rejected is without any basis.

5. Accordingly, the Writ Petition is allowed. The impugned refusal check slip in RFL/Udhagamandalam-Joint/45/2024 dated 15.11.2024 issued by the respondent is quashed. The respondent is directed to register the settlement deed dated 15.11.2024 within a period of 2 weeks, from the date of its representation by the petitioner. No costs.

02.01.2025

Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
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To
The Sub-Registrar,
Joint II Sub Registrar Office,
Jail Hill, Taluk Office Compound
Ooty – 643 001.

P.T.ASHA, J.

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