



W.P.(MD)No.6968 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2025

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

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R.Viswasam

... Petitioner

VS.

- 1.The Sub Registrar,
Dindigul Joint II Sub Registrar Office,
Dindigul.
- 2.The District Registrar,
District Registrar Office,
Dindigul District.
- 3.The Deputy Inspector General of Registration,
O/o.The Deputy Inspector General of Registration,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the refusal check slip RFL/2 dated 20.02.2025 and quash the same as illegal, improper and against the law and consequently direct the



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first respondent to register the petitioners gift deed dated 05.02.2025 with regard to the properties in Dindigul District, Dindigul West Taluk, Thamaraiikulam Village, property comprised in Patta No.203, Survey No. 24/4B, Hectare 0.05.00 and Survey No.24/4D Hectare 0.16.50 within the stipulated time period fixed by this Court.

For Petitioner : Mr.M.Vivek Bharathi

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

The petitioner challenges the refusal check slip, dated 20.02.2025.

2. The petitioner states that the property situated in S.No.24/4B and 24/4D of Thamaraiikulam Village, Dindigul West Taluk, Dindigul District, belonged to one Dhanaraj Chettiar, the maternal grandfather of the petitioner herein. The said Dhanaraj Chettiar had a daughter by name Ellusu. As Ellusu's husband, namely, Rayappan passed away on 02.12.2003, she shifted her residence to the house of her father, Dhanaraj Chettiar. The petitioner is the son of Ellusu and Rayappan.

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3. Out of natural love and affection, Dhanaraj Chettiar executed a “WILL” for the aforesaid properties in favour of the petitioner on 17.11.2010. Dhanraj Chettiar passed away on 18.04.2011. The petitioner states on his death, the “WILL” executed in his favour came into force.

4. After having been in enjoyment of the property and by mutating the revenue records in his name, the petitioner decided to execute a settlement deed dated 05.02.2025 for his property in favour of his wife, namely, Mercy Christy. He presented the document for registration on 20.02.2025. The same was rejected by the first respondent under the impugned order.

5. Four reasons were given in the impugned order, namely :-

(i) In terms of Sections 40 and 41 of the Registration Act read with Rule 69 of the Registration Rules, the “WILL” dated 17.11.2010 requires an order of probate;



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(ii) The petitioner has not produced any evidence that he is the grandson of Dhanaraj Chettiar;

(iii) The patta for the property stands in the name of the petitioner, Viswasam, S/o.Rayappan, but the UDR record stands in the name of P.Dhanaraj Chettiar; and

(iv) The witnesses have not produced their identity card.

6. Challenging the same, the present writ petition.

7. I heard Mr.Vivek Bharathi for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate, who accepts notice on behalf of the respondents.

8. Mr.M.Vivek Bharathi reiterated the contentions made in the affidavit.

9. Mr.N.Ramesh Arumugam supports the impugned order by referring to Sections 40 and 41 of the Registration Act read with Rule 69 of the Registration Rules.



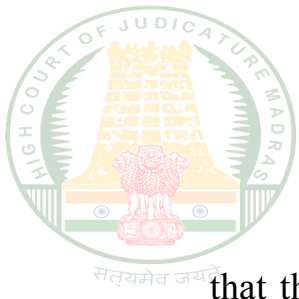
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10. I have carefully considered the submissions of both sides and gone through the records.

11. Regarding the first objection that a “WILL” must be probated mandatorily, Section 57 of the Indian Succession Act answers the same. A 'WILL' executed within the three presidency-towns of Bombay, Calcutta, and Madras, by a person professing the Hindu religion, or for a property situated within the cities of Bombay, Madras and Calcutta, if the “WILL” is executed outside the three towns alone, a certificate of probate is required. In the mofussil areas, as in the present case, it is optional to get probate of the “WILL”. Therefore, the first objection of the Sub-Registrar is untenable.

12. Insofar as the second objection is concerned, the petitioner has produced the Legal Heirship Certificate of the deceased Dhanaraj Chettiar to show that his mother is the legal heir of Dhanaraj Chettiar. A perusal of the “WILL” shows that Dhanaraj Chettiar, taking into account



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that the petitioner has lost his father early, had executed a document in favour of the petitioner. There is no provision of law, under which, a person can get a certificate from any authority stating that he is the grandchild of his grandparents. The purpose of writing a “WILL” is to interfere with the natural course of succession, and the petitioner has produced the same along with the settlement deed. It is an impossible task to prove that the petitioner is the grandson of the deceased. Therefore, the second objection also fails.

13. Insofar as the third objection is concerned, although there is a different name in the revenue records, it is not in dispute that the original owner is Dhanaraj Chettiar, S/o.Ponnusamy Chettiar, that is the reason why, the document stands in the name of P.Dhanaraj Chettiar. On the basis of the “WILL”, the petitioner has mutated the revenue records in his favour and hence, the patta stands in the name of the petitioner, R.Viswasam. A document cannot be issued in the name of a dead person. The previous owner is Dhanaraj Chettiar and the present owner is R.Viswasam, which is shown in the revenue records. In any event, for

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the purpose of registration, demanding revenue records is absolutely unnecessary.

14. Turning to the objection raised by Mr.N.Ramesh Arumugam that there is a non-compliance of Sections 40 and 41 of the Registration Act(hereinafter referred to as 'Act' for brevity), I merely have to refer to the said Sections to show how this objection is absolutely untenable. Section 40 of the Act relates to persons, who are entitled to present a “WILL” or an authority for adoption as prescribed under Section 41 of the Act. The document that has been presented in the present case is neither a “WILL” nor a 'deed' authorizing the petitioner to adopt another person. It is a gift settlement deed executed by the petitioner in favour of his wife. To confuse a settlement deed with the “WILL”, or authority to adopt, requires an extreme level of non-application of mind. In addition, Rule 69 of the Registration Rules also has to be read with Sections 40 and 41 of the Act. As the settlement deed is not a “WILL” or an authority to adopt, the objection raised by Mr.N.Ramesh Arumugam to sustain the impugned order is rejected.



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15. A perusal of the typed set of papers shows that the petitioner had enclosed the Adhaar Card of himself, his wife Mercy Christy Jeganathan and two witnesses, namely, S.Charles William and Arul Arockia Dass Arulanandam. Therefore, the last objection of the Sub-Registrar that the parties have not produced their identity card is a ground invented by the Sub-Registrar for the purpose of rejection of the document.

16. In the light of the above discussion, the objections raised on the basis of the written instructions obtained by Mr.N.Ramesh Arumugam, are not sustainable. They are rejected. Accordingly, the impugned refusal check slip RFL/2 dated 20.02.2025 is hereby quashed. There shall be a direction to the first respondent to register the settlement deed presented by the petitioner within a period of two(2) weeks from the date of uploading of this order.



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costs.

17. With the above direction, this Writ Petition is allowed. No

18. Post the matter after three weeks 'for reporting compliance'.

Index :Yes / No

Internet :Yes / No

NCC :Yes / No

Rmk

18.03.2025

To

1.The Sub Registrar,
Dindigul Joint II Sub Registrar Office,
Dindigul.

2.The District Registrar,
District Registrar Office,
Dindigul District.

3.The Deputy Inspector General of Registration,
O/o.The Deputy Inspector General of Registration,
Madurai.

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V. LAKSHMINARAYANAN, J.

Rmk

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