



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 25.11.2019**

**CORAM:**

**THE HONOURABLE MR.JUSTICE M.SUNDAR**

**W.P(MD)No.23750 of 2019**

WEB COPY

Jebaselvi

... Petitioner

Vs.

1.The Inspector General of Registration,  
Department of Registration,  
Santhome, Chennai - 600 028.

2.The District Registrar,  
District Registration Office,  
Thoothukudi District, Thoothukudi.

3.The Sub-Registrar,  
Sub-Registration Office,  
Eral, Thoothukudi District.

4.Rajan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents 1 to 3 to consider the petitioner's representation dated 26.02.2018 and consequently cancel the fake Will deed Document No.17 of 2016 dated 30.05.2016 on the file of the third respondent Office within the time stipulated by this Court.

For Petitioner : Mr.T.Ganeshamoorthy  
for Mr.Than.Kanagamuthu  
For RR 1 to 3 : Mr.M.Murugan,  
Government Advocate.

**ORDER**

Mr.T.Ganeshamoorthy, learned counsel representing Mr.Than.Kanagamuthu, counsel on record for writ petitioner and Mr.M.Murugan, learned Government Advocate on behalf of respondents 1 to 3 (official respondents) are before this Court.

2.A 'registered Will dated 30.05.2016 registered as Document No.17 of 2017 in the office of third respondent' (hereinafter referred to as 'said Will' for brevity) is the epicentre of instant Writ Petition.

3.Said Will has been executed by one Gnanayutham @ Pitchamuthu, who is writ petitioner's father. The testator died on 20.07.2017 and Death Certificate dated 31.07.2019 has been annexed in the typedset of papers.



4.Writ petitioner has also enclosed legal heir certificate and based on the legal heir certificate, it is urged that writ petitioner is the only legal heir of deceased Gnanayutham @ Pitchamuthu, son of late.Yovan.

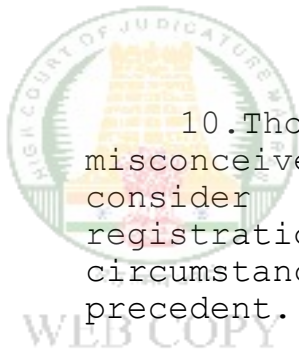
5.Writ petitioner has given a 'representation dated 26.02.2018 to the second respondent with copy marked to first respondent' (hereinafter referred to as 'said representation' for brevity). In and by said representation, writ petitioner has sought cancellation of said Will on the ground that it has been caused to be executed fraudulently by fourth respondent (private respondent). This Court is informed that fourth respondent is writ petitioner's father's brother's son. In other words, fourth respondent is writ petitioner's cousin. There is a specific averment in said representation that on 27.05.2016, fourth respondent has forcibly taken writ petitioner's father from Salem to Thoothukudi. This averment is to the effect that fourth respondent kidnapped writ petitioner's father from Salem, took him to Thirukalur Village, Kadaiyanodai North Street, Thiruchendur Taluk, Thoothukudi District and got the said Will executed.

6.What is of utmost significance is, respondents 1 to 3 (official respondents) do not have powers to cancel a Will. Such a power vests only with a civil Court.

7.Be that as it may, Circular being letter No.41530/U1/2017, dated 31.07.2018 and 08.11.2017 has been issued wherein complaints of fraudulent registration of documents shall be gone into by the Registration Department authorities in accordance with procedure adumbrated therein.

8.In the light of aforesaid trajectory, second respondent shall treat said representation dated 26.02.2018 as a complaint of fraudulent registration and enquire into the same in accordance with Circular being letter No.41530/U1/2017, dated 31.07.2018 and 08.11.2017, after putting on notice writ petitioner as well as fourth respondent and giving them reasonable opportunity.

9.As this order is not adverse to the rights of fourth respondent and as sufficient safety-valve has been put in place by ensuring that fourth respondent is put on notice, given reasonable opportunity, instant Writ Petition is disposed of with the aforesaid directive by hearing learned counsel for writ petitioner and State Counsel.



10. Though the prayer for cancellation of a testament is clearly misconceived, small window of directing second respondent to consider said representation as a complaint of fraudulent registration of document has been given owing to peculiar facts and circumstances and therefore, this order shall not operate as a precedent. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Inspector General of Registration,  
Department of Registration,  
Santhome, Chennai - 600 028.

2.The District Registrar,  
District Registration Office,  
Thoothukudi District,  
Thoothukudi.

3.The Sub-Registrar,  
Sub-Registration Office,  
Eral, Thoothukudi District.

+1 CC to M/s.THA. KANAGAMUTHU, Advocate ( SR-101029[F] dated  
25/11/2019 )

SMA/11/12/19/3P/5C

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