



WEB COPY



W.P.No.32191 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2022

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.32191 of 2022

V.Palanivel

...Petitioner

Vs.

1. The District Registrar,  
Registration Department Coimbatore,  
State Bank Road, Coimbatore – 18.
2. The Joint-I Sub Registrar,  
Coimbatore Registration Department,  
State Bank Road, Coimbatore – 18.
3. The Sub Registrar,  
Periyannayaganpalayam,  
Coimbatore – 20.

4. C.David Climend

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1<sup>st</sup> and 2<sup>nd</sup> respondents to incorporate the decree and judgment made in O.S.No.558 of 2014 dated 10.03.2014 declaring the validity of the WILL dated 04.05.2009 executed in favour of the petitioner in the Book-I on the basis of the representation dated 05.08.2022.

For Petitioner : Mr.S.Venkatesan



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For Respondents : Mr.E.Vijay Anand, AGP, for R1 to R3

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**ORDER**

The petitioner has filed this Writ petition seeking issuance of a Writ of Mandamus to direct the 1<sup>st</sup> and 2<sup>nd</sup> respondents to incorporate the decree and judgment dated 10.03.2014 made in O.S.No.558 of 2014, declaring the validity of the WILL dated 04.05.2009 executed in favour of the petitioner in the Book-I, by considering the petitioner's representation dated 05.08.2022.

2. Mr.Mr.E.Vijay Anand, learned Additional Government Pleader takes notice for the respondents 1 to 3. In view of the consent expressed by the Learned counsel appearing for either side, this petition is taken up for final disposal.

3. Since no adverse order is being passed against the 4th respondent, notice to the private respondent is dispensed with.

4. The case of the petitioner is that one Chinnakannu @ S.Narayanasamy executed a WILL dated 04.05.2009 in favour of the petitioner in respect of the subject properties. After the demise of the said



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S.Narayanasamy, the petitioner is in absolute possession and enjoyment of the subject properties. While so, due to some property dispute, the petitioner filed a suit in O.S.No.558 of 2014 seeking permanent injunction and declaration of the above said WILL dated 04.05.2009 as valid and legal and the same was decreed in favour of the petitioner on 18.03.2014 and the same became final as no appeal was preferred against the said decree. While such being the case, the 4<sup>th</sup> respondent who is in no way connected with the subject properties filed a suit against the petitioner and others in O.S.No.1694 of 2015 seeking to declare the WILL dated 16.10.2008 alleged to be executed by the petitioner's testator / the said S.Narayanasamy in his favour is valid and the WILL dated 04.05.2009 executed in favour of the petitioner is fraudulent and for various other relief, however, the same was dismissed for default on 23.08.2018. Thereafter, the petitioner presented the decree and judgment dated 18.03.2014 and the WILL dated 04.05.2009 for registration, however, the 2<sup>nd</sup> respondent has orally refused to register the same. Aggrieved by the same, the petitioner made a representation dated 05.08.2022 before the 2<sup>nd</sup> respondent seeking to register the decree and judgment along with the WILL, however, till date, no orders have been passed. Hence, this Writ petition.



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5. Though very many grounds have been raised, learned counsel for the petitioner submitted that, it would suffice if this Court issues direction to the 1<sup>st</sup> and 2<sup>nd</sup> respondents to consider the petitioner's representation dated 05.08.2022 and incorporate the decree and judgment dated 18.03.2014 made in O.S.No.558 of 2014 declaring the validity of WILL dated 04.05.2009 executed in favour of the petitioner in the Book-I as expeditiously as possible.

6. Learned Additional Government Pleader has no serious objection for the said order being passed and he fairly conceded that appropriate orders will be passed on the petitioner's representation dated 05.08.2022 within the time stipulated by this Court.

7. Heard learned counsel on either side and perused the materials available on record.

8. Though the petitioner has filed this Writ petition seeking for a larger relief, however, in view of the limited request made by the learned



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counsel for the petitioner at the time of arguments, this Court without expressing any opinion on the merits of the case, grants permission to the petitioner to present the decree and judgment dated 18.03.2014 made in O.S.No.558 of 2014 for entering the same in the Book-I in terms of Section 89 of the Registration Act, 1908 within a period of four weeks from the date of receipt of a copy of this order. Upon receipt of the said decree, the 1st and 2<sup>nd</sup> respondents are directed to consider the same and pass appropriate orders on merits and in accordance with law within a period of eight weeks thereafter, after affording an opportunity of personal hearing to the petitioner and the 4<sup>th</sup> respondent, if there is no legal impediment.

9. Accordingly, this Writ petition is disposed of. No costs.

**01.12.2022**

skt

Speaking Order : Yes/ No

Index : Yes/ No

To

1. The District Registrar,  
Registration Department Coimbatore,

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**M.DHANDAPANI, J.**

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