



WEB COPY



WA No.2622 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WA No.2622 of 2022

Kantha @ K.T. Kanthasoroobi (died)

1.Malarkodi Sukumaran

2.K.T.Pugazhendhi (died)

3.Kayalvizhi

4.Selventhiren

5.Sathiya

: Appellants

(Cause title accepted vide order dated 18.11.2022 in CMP No.20688/2022 and WA SR No.93353/2021)

(Appellant No.2 died, is substituted by the appellants 3 to 5 brought on record vide order dated 04.08.2023 in CMP No.14571/2023 in WA No.2622/2022)

versus

1.Mandothari Prasad @ Russia

2.The Sub Registrar,

District Registrar Cadre

Mylapore, Chennai 600004.

: Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge in WP No.36218 of 2016, dated 26.08.2021.

For Appellants : Mr.Om Prakash, Senior Counsel,
for Mr.G.Mohan

For 1st Respondent : Mr.S.Balasubramanian

For 2nd Respondent : Mr.T.K.Saravanan,
Government Advocate

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JUDGMENT

(Made by the Hon'ble Chief Justice)

We have heard Mr.Om Prakash, learned Senior Counsel for the appellants, Mr.S.Balasubramanian, learned counsel for the first respondent and Mr.T.K.Saravanan, learned Government Advocate for the second respondent.

2. Amongst other submissions, one of the submissions made by the learned Senior Counsel for the appellants is that the order of the learned Single Judge dated 26.08.2021 in WP No.36218 of 2016 is against a dead person. The second respondent in the writ petition, viz Ms.Kantha @ K.T.Kanthasoroobi, died on 11.04.2018. Thereafter, arguments were advanced and the order was passed on 26.08.2021.

3. The writ petition was filed by the original writ petitioner/first respondent herein challenging the decision of the Sub Registrar with regard to the registration of the document by the second respondent in the writ petition viz., deceased Ms.Kantha. The Sub Registrar, Mylapore, was represented by the learned Government Advocate in the writ petition.

4. An order against a dead person is a nullity. The only exception is if the person died after the arguments are concluded and before the judgment is



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delivered. In the present case, arguments were advanced after the death of the second respondent in the writ petition.

5. The present appeal is filed by the legal heirs of the deceased second respondent in the writ petition. As right to sue survives, we pass the following order :

(a) The impugned order is quashed and set aside;

(b) The parties are relegated before the learned Single Judge;

(c) It is made clear that we have not considered the submissions and merits of the matter;

(d) All contentions of the respective parties are kept open;

(e) There will be no order as to costs.

Consequently, CMP No.20853 of 2022 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

20.11.2023

Index : Yes/No
Neutral Citation : Yes/No
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THE HON'BLE CHIEF JUSTICE

AND

D.BHARATHA CHAKRAVARTHY, J.

(tar)

To
The Sub Registrar,
District Registrar Cadre
Mylapore, Chennai 600004.

WA No.2622 of 2022

20.11.2023