



W.P(MD)No.1115 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.1115 of 2022

and

W.M.P(MD)No.924 of 2022

Murugan

... Petitioner

Vs

1. The District Registrar,
Virudhunagar District , Virudhunagar.

2. The Sub Registrar,
Sub Registrar Office, Sattur,
Virudhunagar District.

3. Udhayalakshmi

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st Respondent to cancel the Will registered as Document No.56/2015, dated 18.05.2015 at the 2nd Respondent Sub-Registrar Office, Sattur, Virudhunagar District.

For Petitioner : Mr.R.Murugappan



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For R1, R2 : Mr.M.Prakash
Additional Government Pleader

For R3 : Mr.R.Karunanidhi

ORDER

This Writ Petition has been filed in the nature of Mandamus, seeking the 1st Respondent, District Registrar, Virudhunagar District to cancel the Will registered as Document No.56/2015 and executed on 18.05.2015 in the 2nd Respondent, Sub-Registrar Office, Sattur, Virudhunagar District.

2.The petitioner is the son of Chinnathambi. His father Chinnathambi died on 27.06.2018. According to the learned counsel for the petitioner, the only legal heirs of Chinnathambi are the petitioner, his mother and a sister. The father of the petitioner also possessed and owned lands in S.Nos.180/2A, 180/44, 80/4, 239/5, 241/1, 146/20, 180/45, 228/2C, 386, 109/1A at Sattur Town, Virudhunagar District. The petitioner then came to know that there was a 'Will', which has been executed by his father Chinnathambi in Document No.56/2015 and executed on 18.05.2015, in the name of Chembukutty Kannan. The recital of the Will show that there was



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another lady namely, Perumal Ammal and it is claimed that the father of the petitioner had married her and they had no issues. Therefore, Chembukutty Kannan was taken up on adoption, who died on 02.09.2019. The third respondent is the wife of Chembukutty Kannan.

3.Coming to know all the facts, this writ petition has been filed seeking for a direction to cancel the registered Will, since the recitals in the Will are not correct namely that Chinnathambi had married Perumal Ammal and the fact of adoption of Chembukutty Kannan. These are the issues that have to be examined only by a competent Civil Court. The one factor which will have to be considered is that the Will, came into force only on 27.06.2018. The petitioner will have to adjudicate before the Civil Court, questioning the marriage between Chinna Thambi and Perumal Ammal and fact of adoption of Chembukutty Kannan. The said issues can be asserted and proved by the third respondent, who claims right through Chembukutty Ambalam. Let the petitioner file a suit, if it is not specifically not barred, implicitly and explicitly under Section 9 of Civil Procedure Code, 1908.



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4.With the above direction, this writ petition stands disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

06.03.2023

NCS : Yes/No
Index : Yes / No
Internet: Yes/ No

PNM

To

1. The District Registrar,
Virudhunagar District , Virudhunagar.
2. The Sub Registrar,
Sub Registrar Office, Sattur,
Virudhunagar District.



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C.V.KARTHIKEYAN, J.

PNM

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