



WEB COPY



W.P.No.2078 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2024

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.P.No.2078 of 2024

and

W.M.P.No.2243 of 2024

... Petitioners

1. Jean Baptiste Ferdinand Pinail,

2. Justin Vianney Pinail

Vs.

The District Registrar,
Puducherry Registration Department,
Saram,
Puducherry.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondent to open the sealed cover Will dated 30.12.2022 executed by the petitioners' demised father namely Pinail Paquirissamy @ Paul.

For Petitioners : Mr.K.Sasindran

For Respondent : Mr.V.Usha
Additional Government Pleader
(Pondicherry)



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ORDER

This Writ Petition has been filed to issue a Writ of Mandamus, to direct the respondent to open the sealed cover “Will”, dated 30.12.2022 executed by the petitioners' demised father, namely Pinail Paquirissamy @ Paul.

2. Heard the learned counsel appearing for the petitioners and the learned Additional Government Pleader (Pondicherry) appearing for the respondent and perused the materials available on record.

3. Learned counsel for the petitioners submitted that the petitioners' father executed a Will bequeathing his properties equally to their children ie., the petitioners and other two daughters. The petitioners' father executed a Will dated 30.12.2022 before the respondent under sealed cover and the same is under the custody of the respondent herein. After the demise of the petitioners' father, the petitioners approached the respondent and requested to open the sealed



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cover Will executed by their father. The respondent directed the petitioners to be present along with other legal heirs also and further informed that he will open the sealed cover Will only on the joint representation/requisition of all the legal heirs of the executant.

4. It is seen that the petitioners, along with two other daughters, are legal heirs of the deceased father. When the petitioners approached the respondent to open the sealed cover Will executed by their father, the respondent informed them orally that the sealed cover “Will” will be opened only on the joint request of all the legal heirs of the executant. However, the respondent has not passed any order in writing. Based on the oral information of the respondent, the petitioners rushed to the Court.

5. The respondent has filed the counter stating that the petitioners have produced the family card issued by the Republic of Indian Union alone and they have not produced the Legal Heirship Certificate. The petitioners have also admitted that they have not produced the same and



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they have produced only the family Card issued by the Republic of Indian Union. However, the respondent cannot insist the presence of all the legal heirs or to give joint requisition of all the legal heirs. In case, any one of the legal heir is producing the Death Certificate of the deceased father and Legal Heirship Certificate, the Registrar can open the Will. If the Will is stated to have been executed in favour of all the persons who would be present at the time of opening the sealed cover Will, after getting proper acknowledgement, the authority can open and issue the Will. In case, the persons are not the beneficiary of the Will, the authority can inform the same to the beneficiary and then the beneficiary can approach the competent authority for necessary relief. In this case, in the counter itself, the respondents had admitted that the writ petitioners were advised to ensure that all the legal heirs or at least get consent letter from them before the opening the sealed cover Will. The said direction is unwarranted and it is also not necessary. Since the petitioners have not produced the Legal Heirship Certificate, the petitioners are directed to produce the same along with the Death Certificate of the father before the respondent. On production of the



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Death Certificate of the deceased father as well as the Legal Heirship Certificate, the respondent is directed to open the cover of the Will. If the petitioners are the only beneficiaries, the Registrar shall handover the Will to the beneficiaries. If the petitioners are not the beneficiaries, or any of the persons name is mentioned in the Will, the Will shall not be handed over to the petitioners.

6. With the abovesaid direction, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition in W.M.P.No.2243 of 2024 is ordered on payment of separate court fees by each of the petitioners.

20.02.2024

mfa

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

The District Registrar,
Puducherry Registration Department,
Saram,
Puducherry.



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P.VELMURUGAN, J.

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