



WEB COPY

W.P.No.10313 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.10313 of 2024

1.Saradhambal

2.Murugan

3.Sankar

4.Raja

5.Samydurai

...

Petitioners

versus

1.The Deputy Inspector General of Registration,
Cuddalore - 607 002.

2.The District Registrar (Admin),
Cuddalore Registration District,
Kallakurichi.

3.K.Sakthivel

4.R.Rajaram

5.G.Suresh

6.S.Naryansamy

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent dated 19.05.2023 in Ref.Na.Ka.No.2652/Uo/2021 and quash the same and consequently to set aside the order passed by the 2nd respondent in ref Na.Ka.No.4512/A1/2019 dated 05.07.2021.



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W.P.No.10313 of 2021



For Petitioners : Mr.S.Ramachandran
For Respondent Nos.1 & 2 : Mr.L.S.M.Hasan Fizal
Additional Government Pleader

ORDER

By consent of both sides, this Writ Petition is disposed of at the stage of admission itself.

2. This Writ Petition has been filed challenging the order passed by the first respondent dated 19.05.2023 and also to set aside the order passed by the second respondent dated 05.07.2021.

3. Heard the learned counsel appearing for the petitioners and the learned Additional Government Pleader appearing for the respondents 1 and 2.

4. It is the grievance of the writ petitioners that when the partition deed was presented for registration, the second respondent has refused to register the same on the ground that the Will relied upon by the petitioners is an unregistered document. Hence, the present Writ Petition.



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5. Though normally counter is required for quashing the impugned Orders, since the Order impugned, perse is illegal and contrary to the settled position of law, this Court is of the view that no counter is required. When the partition deed has been presented for registration, the same was refused to be registered on the ground that the Will executed by the grandfather of the petitioners 2 to 5 has not been registered. The registering authorities do not even know the basic substantive provision of law and they cannot act as an appellate authority or a Court. When a registration of the Will itself is optional, the registering authority has no power to refuse to register the partition deed on the ground that the Will has not been registered.

6. In such view of the matter, this Writ Petition is allowed and the second respondent is directed to register the partition deed presented by the petitioners within a period of fifteen days from the date of receipt of a copy of this order. No costs.

18.04.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

sri

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N.SATHISH KUMAR, J.

sri

To

- 1.The Deputy Inspector General of Registration,
Cuddalore - 607 002.
- 2.The District Registrar (Admin),
Cuddalore Registration District,
Kallakurichi.

W.P.No.10313 of 2024

18.04.2024
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