



W.A.No.966 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2024

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.966 of 2023

R.Surekha

.. Appellant

Vs

1.The Sub Registrar,
Office of the Sub Registrar,
Kadayam,
Tirunelveli District.

2.The Sub Registrar,
Office of the Sub Registrar,
Thalaivasal,
Attur Taluk,
Salem District.

3.R.Sukanya

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 28.9.2022 passed in W.P.No.24028 of 2022.



W.A.No.966 of 2023

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For the Appellant : Mr.K.Selvaraj

For the Respondents : Mr.C.Kathiravan
Spl. Government Pleader
for respondents 1 and 2

: Mr.P.Valliyappan
Senior Counsel
for M/s.P.V.Law Associates
for respondent No.3

JUDGMENT

(Order of the court was made by the Hon'ble Chief Justice)

We have heard Mr.K.Selvaraj, learned counsel for the appellant; Mr.C.Kathiravan, learned Special Government Pleader for respondents 1 and 2; and, Mr.P.Valliyappan, learned Senior Counsel for M/s.P.V.Law Associates, learned counsel for the third respondent.

2. Learned counsel for the appellant submits that there was no reason for the Sub Registrar to refuse the registration of the



W.A.No.966 of 2023

Will. The Will executed by the father on 6.5.2021 was tendered for registration as per Section 41 of the Registration Act, 1908. The Will has to be registered. An enquiry was conducted by the Sub Registrar. The appellant's elder sister objected for registration of the Will on the ground that she has filed a civil suit, bearing O.S.No.481 of 2021 on the file of the Principal Sub-Court, Salem, for partition and the same is pending.

3. According to learned counsel for the appellant, the pendency of the civil suit would not disentitle the authority to register the Will. According to learned counsel, the civil suit is subsequent to the execution of the Will.

4. It is not disputed that O.S.No.481 of 2021 is filed for partition and separate possession and the same is pending. The Will is also a subject-matter in the said suit.

5. It is submitted that the suit is ripe for trial/evidence. The finding of the civil court would be binding upon the respondent



W.A.No.966 of 2023

authorities and it is not the other way round. Even if the Sub Registrar arrived at the satisfaction, the same is not binding on the civil court. As the civil suit is pending and ripe for trial, the course adopted by the learned Single Judge cannot be faulted with. The parties shall cooperate in expeditious disposal of the civil suit. The trial court shall endeavour to decide the suit, bearing O.S.No.481 of 2021, expeditiously, preferably within nine (9) months from the date of receipt of a copy of this judgment. Certainly, the parties are governed by the decision of the civil court.

6. The writ appeal, accordingly, stands disposed of. There shall be no order as to costs.

(S.V.G., CJ.)

(D.B.C., J.)

12.03.2024

Index : Yes/No

Neutral Citation : Yes/No

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W.A.No.966 of 2023

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To

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Kadayam, Tirunelveli District.
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W.A.No.966 of 2023

THE HON'BLE CHIEF JUSTICE
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