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WP.No.13618 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.13618 of 2024
and W.M.P.Nos.14772 of 2024

1.Saravanan
2.Kannaki
3.Santhru

.. Petitioners

Versus

1.The District Registrar (Administration)
Dharmapuri

2.The Sub Registrar
Pappireddipatti
Dharmapuri District

3.Kalpana
4.Kanchana

(R3 & R4 impleaded vide Order dated 20.06.2024 made in
W.M.P.No.16573 of 2024 in W.P.No.13618 of 2024)

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in proceedings dated 24.04.2024 in Na.Ka.No.152 of 2024, Na.Ka. No.153 of 2024 and Na.Ka.No.154 of 2024 respectively, quash the same consequently direct the respondents to release the pending documents



WP.No.13618 of 2024

P12,P13, P14 after completion of registration proceedings.

WEB COPY

For Petitioner : Mr.S.N.Subramani

For Respondents : Mr.L.S.M.Hasan Fizal for R1 & R2
Additional Government Pleader

Mr.Prakash Goklaney for R3 & R4

ORDER

Challenging the notice issued for enquiry under Rule 69 of the Registration Rules.

2. It is the case of the writ petitioners that they presented three unregistered wills executed by their grand father. However, they were not registered. Thereafter, he has filed a writ petition before this Court. Only in pursuant to the directions of this Court, now the document is kept pending and notice has been issued for enquiry.

3. The learned Additional Government Pleader would submit that document has not been registered and kept pending since three wills of the even date is sought to be registered. According to him, any wills sought to be registered after the death of the testator, an enquiry under Rule 69 of the Registration Rules is mandatory. Only to comply the provisions of the law, a



WP.No.13618 of 2024

notice has been issued. Hence, opposed the writ petition.

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4. Mr.Prakash Goklaney, learned counsel for the impleading respondents also submitted that enquiry is mandatory.

5. Heard both sides and perused the materials available on record. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

6. No doubt, unregistered will of the testator can be registered after the death of the testator, such document can be presented either by the executor or by any person, even including the beneficiaries. But, at the same time, before registration minimum enquiry is contemplated as per rules so that all the persons interested will be put into notice about the alleged will.

7. It is relevant to extract Rule 69 of the Registration Rules.

“69. When a will or an authority to adopt is presented for registration after the death of the testator or the donor, the registering officer shall fix a day for the enquiry contemplated by section 41 (2) of the Act and shall cause notice of the enquiry (a) to be served on the persons to whom in his opinion special notice



WP.No.13618 of 2024

WEB COPY

should be given (b) to be posted in a conspicuous part of the registration office and (c) to be published (i) in the Gazette of the district in testator or donor lived, (ii) in the Gazette of the district in which the property of the deceased is situated and (iii) in the villages where the testator or donor lived, where interested parties may reside and where the property of the deceased is situated. The cost of the service of the notice and of its publication shall be levied in advances from the person who presents the document for registration.”

8. On perusal of the above makes it clear that enquiry is a pre-requisite when the testator is died. Such view of the matter, mere notice issued to comply the provisions of law cannot be challenged in a writ petition.

9. In view of the above, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

20.06.2024

dhk

Internet : Yes/No

Index :Yes/No

Neutral Citation : Yes/No



WEB COPY



WP.No.13618 of 2024

To

1.The District Registrar (Administration)
Dharmapuri

2.The Sub Registrar
Pappireddipatti
Dharmapuri District



WEB COPY



WP.No.13618 of 2024

N. SATHISH KUMAR, J.

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W.P.No.13618 of 2024

20.06.2024
(1/2)