



WEB COPY



WP.Nos.18312 & 18314 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **05.07.2024**

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.Nos.18312 & 18314 of 2024

1. Elizabeth Thomas	
2. K.George Thomas	.. Petitioners in W.P.No.18312 of 2024
1. Elizabeth Thomas	
2. K.T.Joseph	.. Petitioners in W.P.No.18314 of 2024

Versus

The Joint – I Sub Registrar, Coimbatore.	.. Respondent in both WPs.
---	----------------------------

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records issued in RFL/Coimbatore North Joint 1/67/2024, 1/66/2024 respectively dated 24.6.2024 quash the same and consequently direct the respondent to admit the execution register the release deed dated 20.6.2024 presented on 24.6.2024 in accordance with law and release the document after registration within the time to be stipulated by this Court.

For Petitioners	: Mr.R.Bharath Kumar in both WPs
For Respondent	: Mr.M.Shajahan Special Government Pleader [in both WPs]

COMMON ORDER



WP.Nos.18312 & 18314 of 2024

WEB COPY With the consent of both sides, these Writ Petitions are taken up for final disposal at the admission stage itself.

2. These Writ Petitions are filed to quash the impugned RFL/Coimbatore North Joint 1/67/2024, 1/66/2024 respectively dated 24.6.2024 and consequently direct the respondent to register the release deed dated 20.6.2024 presented on 24.6.2024 in accordance with law and release the document after registration within the time to be stipulated by this Court.

3. Heard learned counsel for the petitioners and the learned Special Government Pleader appearing for the respondent and perused the materials available on record.

4. The case of the writ petitioners is that the subject properties have been purchased by the father of the petitioner. During life time of his father, he has executed a Will on 06.11.2019 bequeathing his properties in favour of his two sons and his wife. When the mother executed release deeds bequeathing in favour of her sons and presented the release deeds for registration, the same were refused to be registered on the ground that the Will has not been probated.

Challenging the said Orders, the present Writ Petitions have been filed.



WP.Nos.18312 & 18314 of 2024

WEB COPY 5. A perusal of the impugned Orders clearly indicate that the same is against the fundamental principles of law and hence, no counter is required. It is relevant to note that as far as the Will is concerned, the registration of a Will is only optional. The property can be bequeathed by a Will and the Will can be either registered or unregistered one. Probate is required only when the Will was executed in metropolitan cities. Therefore, the authority cannot insist that the Will has to be a probated. Such a finding is nothing but perverse and non application of mind. In such view of the matter, the Orders impugned have to be quashed.

6. Accordingly, these Writ Petitions are allowed and the impugned Orders dated 24.06.2024 passed by the respondent stands quashed. The respondent is directed to register the Release Deeds dated 20.06.2024 presented by the petitioners within a period of fifteen days from the date of receipt of a copy of this Order. No costs.

05.07.2024

vrc

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No

Note : Issue Order Copy on 10.07.2024

<https://www.mhc.tn.gov.in/judis>



WP.Nos.18312 & 18314 of 2024

To,
WEB COPY
The Joint – I Sub Registrar,
Coimbatore.



WEB COPY



WP.Nos.18312 & 18314 of 2024

N. SATHISH KUMAR, J.

vrc

W.P.Nos.18312 & 18314 of 2024

05.07.2024