



WEB COPY



W.P.No.27154 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2024

CORAM

THE HON'BLE **MS.JUSTICE P.T.ASHA**

W.P.No.27154 of 2024 and W.M.P.No.29664 of 2024

Ponmani Duraisamy

... Petitioner

Vs.

1. The District Registrar,
Office of the District Registrar,
Trichy Main Road,
Namakkal District – 637 001.

2. The Sub Registrar,
Pallipalayam Sub Registrar Office,
Pallipalayam,
Namakkal District – 638 006.

3. D.Padmanaban ... Respondents
Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records leading to the issuance of the Refusal Check Slip dated 06.12.2023 bearing reference No.RFL/Pallipalayam/91/2023 issued by the 2nd Respondent and quash the same and consequently direct the 2nd Respondent to register and return the Cancellation Deed dated 06.12.2023.

For Petitioner : Mr.N.R.Elango,
for Mr.B.Arvind Srevatsa

For R1 & R2 : M/s.C.Meera Arumugam



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For R3

Additional Government Pleader
: Mr.L.P.Shanmugasundaram

ORDER

Challenging the Refusal Check Slip dated 06.12.2023, the Petitioner has filed this Writ Petition.

2. The case of the petitioner is that her late husband, Duraisamy had purchased several properties under various sale deeds spreading from the year 1969 to 2002. These properties are situate at Sangagiri, Kumarapalayam and Pallipalayam. That apart, the petitioner had herself purchased a property in the year 1979 under a registered sale deed from one Chinne Gounder.

3. The petitioner would further contend that she and her husband were in possession and enjoyment of these properties. While so the two of them had executed a Joint Will dated 28/2/2007 registered on the file of the Sub-registrar Namakkal in respect of 7 items of properties. The Will was executed at the behest of her son Padmanabhan, the 3rd Respondent herein who assured his parents that he would take care of his sister, Kalaiselvi. However, contrary to this assurance her son adopted a hostile and violent attitude after the demise of her husband. He was bent on taking away the properties covered



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under the Will. In fact criminal complaints were lodged on account of this.

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4. Taking stock of these incidents the petitioner decided to cancel the Will and on 6/12/2023 had presented a Deed of Cancellation of the Will dated 6/12/2023. However, the 2nd respondent has refused to register the same stating that after the death of Duraisamy the Will had come into effect and can therefore not be cancelled and accordingly issued a refusal check slip which is challenged in these proceedings.

5. The 2nd and 3rd respondent have filed their counter setting out reasons as to why the Will dated 28/2/2007 could not be cancelled.

6. Heard the counsels and perusal the records.

7. From the Counter Affidavit filed by the 3rd Respondent, it is seen that the Petitioner herein has already executed a 'Will' in favour of her daughter namely D.Kalaiselvi on 10.03.2020 under a registered Document No.91 of 2020 before the Sub Registrar Office, Erode. The 'Will' spells out that after the demise of the Petitioner, the properties would devolve on the Petitioner's daughter. Further, the Petitioner's daughter has filed a Suit for



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partition in O.S.No.124 of 2021 pending on the file of the District Court, Namakkal. The Petitioner and the 3rd Respondent are the parties to the proceedings. The Petitioner has also initiated D.V.A.C No.1 of 2021 against the Respondent before the Judicial Magistrate Court, Kumarapalayam.

8. Since the parties are already before the Civil Court for the Suit for partition in O.S.No.124 of 2021, this Court does not wish to express any opinion on the nature of the 'Will'. Therefore, this Writ Petition is disposed of without going into the merits of the case by directing the parties to work out their remedy before the Suit in O.S.No.124 of 2021, pending on the file of the District Court, Namakkal. No costs. Consequently, connected Miscellaneous Petition is closed.

09.12.2024

Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation : Yes/No
rgm

P.T.ASHA, J.

rgm

To

1. The District Registrar,



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Office of the District Registrar,
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Namakkal District – 637 001.

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