



W.P.No.30443 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2024

CORAM

THE HONOURABLE MS. JUSTICE P.T. ASHA

W.P.No.30443 of 2024

Banumathi

...Petitioner

Vs.

1.The Inspector General of
The Registration Department,
100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
Raja Annamalai Puram,
Chennai, Tamil Nadu 600028

2.The District Registrar,
Registration Department,
Mayiladuthurai District 609001.

3.The Sub Registrar,
Registration Department,

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WEB COPY Mayiladuthurai District-609001.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the 3rd respondent to register the Will based on the representation dated 18.11.2022.

For Petitioner : Mr.M.Marimahesh

For Respondents : Mr.C.Sathish

Government Advocate for R1 to R3

ORDER

Aggrieved by the refusal on the part of the 3rd respondent to register the Will dated 18.11.2022 executed by the petitioner, the petitioner is before this Court.

2.It is the case of the petitioner that the property, which is the subject matter of the Will, had been settled in her favour by her husband under a registered document dated 08.06.2018 which is registered on the file of the



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Sub-Registrar, Mayiladuthurai. The petitioner has 3 sons and daughters, all her children are married and living separately. The petitioner and her husband were living with her elder son Raghuraman who is taking care them. The petitioner's younger son Seetharaman appears to have been troubling the petitioner and her husband for a long time and had forcibly occupied the petitioner's property which is small marriage hall, through which the petitioner was earning income. He had filed a suit for bare injunction in O.S.No.178 of 2018 stating that the petitioner's husband had executed a Will in his favour. He had also prayed for an order of interim injunction in the said Suit in I.A.No.262 of 2018. The petitioner taking into consideration the fact that she was growing on in age and suffering health issues, had decided to execute a Will in favour of her elder son Raghuraman and had approached the 3rd respondent for registering the same. She was also given a slot for submitting the document for registration between 15.30 hours on 08.11.2022. The Sub-Registrar, after perusing the Will, sighted the pendency of the suit as a reason for not registering the Will, but refused to give a refusal slip. The petitioner had brought to the notice of the Sub-Registrar that there was no impediment for the registration of the Will. However, despite the same, the 3rd respondent



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refused to register the Will. On appeal to the District Registrar, respondent No. 2, was also no action has been taken. Therefore, the petitioner has approached this Court.

2.Heard learned counsel on either side.

3.The Sub Registrar over looked that the suit has been filed by the petitioner's son on the basis of Will, which is alleged to have been executed by his Father on 02.02.2015. However, he has failed to consider the fact that under a registered settlement deed dated 08.06.2018, the said Ganesan has settled the property in favour of the petitioner thereby revoking/cancelling the Will.

4.In the light of the above, the 3rd respondent is bound, under Section 71 of the Registration Act, to make an order of refusal and record reasons in book No.2 and make an endorsement on the document and provide a copy to the person presenting the document.



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5. In the instant case, there is no order of refusal and except an oral one. Be that as it may, the oral reason for refusing to register cannot be sustained for the reasons set out above. Therefore, the writ petition is allowed and 3rd respondent is directed to register the Will, within a period of two weeks from the date of receipt of a copy of this order.

Resultantly, the writ petition stands allowed. No costs.

06.11.2024

vsn

To

1. The Inspector General of
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2. The District Registrar,
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Mayiladuthurai District 609001.

3.The Sub Registrar,

Registration Department, Mayiladuthurai District-609001.

P.T. ASHA, J.

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