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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED **23.01.2024**

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THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**

W.P(MD)No.1346 of 2024
and
W.M.P(MD)Nos.1395 & 1396 of 2024

1.Kasirajan
2.Thiyagarajan
3.Rajaram ...Petitioners

/Vs./

1.The District Registrar,
Thoothukudi District.

2.The Sub Registrar,
Ottapidaram,
Thoothukudi District. ...Respondents

Prayer: Writ Petition - filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to impugned order dated 22.11.2021 passed by the 1st respondent vide proceedings in Na.Ka.No. 6854/Aa2/2021 and quash the same as illegal and consequently direct the respondents herein to cancel the cancellation of Will Deed dated 20.12.2021 registered vide Doc.No.83 of 2021 on the file of the 2nd respondent.

For Petitioners : Mr.C.Senthil Murugan
For Respondents : Mr.D.S.Nedunchezhian
Govt. Advocate

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ORDER

This writ petition has been filed challenging the order dated 22.11.2021 passed by the 1st respondent vide proceedings in Na.Ka.No.6854/Aa2/2021 with a consequential direction to the respondents to cancel the cancellation of Will Deed dated 20.12.2021 registered vide Doc.No.83 of 2021 on the file of the 2nd respondent.

2. Heard the learned counsel appearing for the petitioners and the learned Government Advocate appearing for the official respondents. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. According to the petitioners, a will was executed in favour of the petitioners by their parents jointly in respect of their properties. After demise of their mother, the will in respect of the properties owned by the mother came into force. By the misguidance of someone, the petitioners' father has filed a petition before the Revenue Divisional Officer, for not maintaining him under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, who refused to cancel the settlement deed which is in favour of the petitioners' another brother. Aggrieved over the same, he filed an appeal before

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the District Collector, who has cancelled the settlement and also the will jointly executed by the parents of the petitioners, against which, the petitioners filed a review petition, in which, the order was partly modified. When the matter stood thus, the father of the petitioners executed cancellation of the will before the second respondent and filed a petition before the first respondent to cancel the will. The first respondent accordingly passed the impugned order, which is under challenge in this writ petition.

4. The learned Government Advocate appearing for the respondents submits that only based on the cancellation of will presented by the petitioners' father, the will was cancelled and that only based on his request, the impugned order came to be passed and there is no personal interest in the order being passed.

5. After going through the averments made, it is seen that the father of the petitioners has executed cancellation of the will only on the fact that his children were not taking care of him and hence, he sought for cancellation of the will before the first respondent. If the petitioners have any right over the property, they have to approach the competent civil Court and there is no such document available for considering the case of the petitioners.

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6. Recording the same, the writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

23.01.2024
(2/2)

NCC : Yes/No
Index : Yes/No
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TO:-

1.The District Registrar,
Thoothukudi District.

2.The Sub Registrar,
Ottapidaram,
Thoothukudi District.

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V.BHAVANI SUBBAROYAN, J.

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Order made in
W.P(MD)No.1346 of 2024
(2/2)

Dated:
23.01.2024

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