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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-04-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 12331 of 2025

WMP No. 13926 of 2025

K.Janani

Petitioner(s)

Vs

The Sub Registrar
Palacode SRO,
Dharmapuri District.

Respondent(s)

PRAYER Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Refusal check Slip in RFL/palacode/31/2025 dated 01.04.2025 passed by the respondent, quash the same and consequently to direct the respondent to register the Sale Deed dated 28.03.2025 executed by the petitioner in favour of V. Aravindan, in respect of 0.01.46 Hec. in R.S. No. 1289/12 (Old S.No. 936/1A1), 0.00.20 Hec. in R.S. No.1289/4 (old S.No. 936/1A1) and 0.00.89 Hec. in R.S. No.1289/14 (Old S.No. 936/1A1), Palacode Village, Dharmapuri District.



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For Petitioner(s): Mr.N. Manoharan

For Respondent(s): Mr.U.Baranidharan
Special Government Pleader

ORDER

This writ petition has been filed challenging the refusal Check Slip dated 01.04.2025 issued by the respondent and for a consequential direction to the respondent to register the Sale Deed dated 28.03.2025 executed by the petitioner with respect to the subject property.

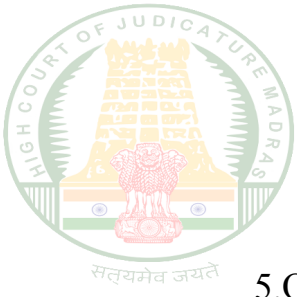
2.Heard Mr.N.Manoharan, learned counsel appearing on behalf of the petitioner and Mr.U.Baranidharan, learned Special Government Pleader appearing on behalf of respondent.

3.The refusal Check Slip has been issued by the respondent mainly on the ground that the original Will which was relied upon by the petitioner was not produced. The other reason that was assigned by the respondent is that some of the properties have already been dealt with by the father of the petitioner during



the year 2004 and that the petitioner is also seeking to once again deal with the same properties in the present Sale Deed.

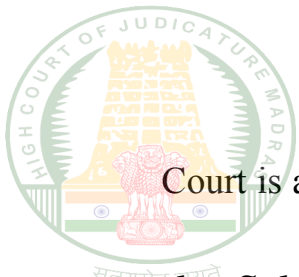
4. On carefully considering the submissions made on either side and also the materials available on record, it is seen that the subject properties originally stood in the name of the paternal great grand father. He executed a Will dated 12.01.1981 bequeathing the property in favour of seven beneficiaries and life interest was given in favour of the father of the petitioner. The testator died on 19.02.1981 and the Will came into force. Based on the life interest that was given in the name of the father, he mutated the revenue records in his name in Patta No.402. It seems that the father had dealt with a portion of the property and executed Sale Deeds in the year 2004. The petitioner who is one of the beneficiary in the Will wanted to deal with the properties which devolved upon the petitioner and executed a Sale Deed dated 28.03.2025. The same was refused to be registered by the respondent on the ground that the original Will was not produced and that the father of the petitioner had already dealt with a portion of the property.



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5. On carefully going through the copy of the Will that was placed before this Court, it is seen that the father of the petitioner was only given life interest. This will only mean that he will be entitled to enjoy the property during his life time without any power of alienation. However, the father of the petitioner without referring to the Will, has independently dealt with the portion of the property in the year 2004. Such Sale Deed that was executed by the father of the petitioner itself is questionable since a life estate holder will not have the right to dispose of the property except enjoying the property during the life time. The law on this issue is now too well settled and useful reference can be made to the order relied upon by the learned counsel for the petitioner in ***D. Rajendiran vs. D. Dumararaj*** in ***S.A.No.141 of 2019 dated 28.06.2024*** (Paragraph No.22).

6. Insofar as the insistence for the original document, it has now been repeatedly held that such insistence of original document cannot be a condition precedent for registering a document. If the original Will has been lost, a recital to that effect can be included in the Sale Deed executed by the petitioner. This

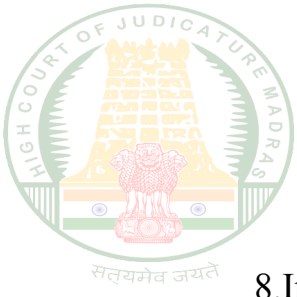


Court is also taking note of the latest judgment of the Apex Court in ***K.Gopi vs.***

the Sub-Registrar and Others in Civil Appeal No.3954 of 2025 dated

07.04.2025. The Apex Court has held that Rule 55A(i) is inconsistent with the provisions of the Registration Act and due to such inconsistency, it has been declared as ultravires. In view of the same, the respondent is denuded of the power of going into the title to the property or insisting for original title documents.

7.In the light of the above discussion, the impugned refusal Check Slip dated 01.04.2025 issued by the respondent is hereby quashed and there shall be a direction to the respondent to register the Sale Deed, if it is otherwise in order. It is also made clear that ultimately, if there is a rival claim made over the same property, it can only be resolved before the competent Civil Court and order passed in this writ petition pursuant to which the Sale Deed is executed and registered, will not come in the way of the rival claimants to agitate their rights independently.



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8. In the result, this writ petition stands allowed with the above directions.

No Costs. Consequently, connected miscellaneous petition is closed.

08-04-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

ssr



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The Sub Registrar
Palacode SRO,
Dharmapuri District.



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N.ANAND VENKATESH J.

SSR

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