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W.P.No.17113 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.17113 of 2025

A.Selvam

... Petitioner

Vs.

The Sub Registrar,
Magudanchavadi SRO,
Salem District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus Calling for the records relating to the impugned order dated 09.04.2025 made in Refusal Check Slip order in RFL/Magudanchavadi/104/2025 passed by the respondent, Quash the same and consequently to direct the respondent to register the Settlement Deed dated 09.04.2025 executed by the petitioner in favour of his son S. Prabakaran in respect of the subject house property measuring 807 1/4 sq.ft., bearing Natham new S.F.No.851/8, K.K.Nagar, Edanganasalai Bit I Village, Sankari Taluk, Salem District.

For Petitioner	:	Mr.N.Manoharan
For Respondent	:	Mr.U.Baranidharan Special Government Pleader



W.P.No.17113 of 2025

ORDER

By consent of learned counsel on both sides, this writ petition is taken up for final disposal at the admission stage itself.

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2.The present writ petition is filed praying for a Writ of Certiorarified Mandamus to quash the impugned refusal check slip dated 09.04.2025 passed by the respondent and consequently to direct the respondent to register the Settlement Deed dated 09.04.2025 executed by the petitioner in favour of his son S. Prabakaran in respect of the subject house property comprised in S.F.No.851/8, measuring an extent of 807 1/4 sq.ft. situated at K.K.Nagar, Edanganasalai Bit I Village, Sankari Taluk, Salem District.

3.It is further submitted by the learned counsel for the petitioner that when the Settlement Deed was presented before the respondent for registration, the same was refused by the respondent, on the premise that Will on the basis of which title is derived/claimed by the petitioner is not registered.



W.P.No.17113 of 2025

4. Reliance was placed on the following judgments of this Court:

WEB COPY (i) In W.P.No.12671 of 2023 dated 03.07.2023, wherein this Court has held as follows:

“3. Probation of will is not compulsory except in the city of Chennai and thus, the Sub Registrar ought not to have refused the registration merely on the ground that the will was not probated. More so, in the present case, the sale deed was presented by duly paying the stamp duty and by following the procedures.”

(ii) In W.P.No.16999 of 2020 dated 03.12.2020, wherein this Court has held as follows:

“5. In the considered view of this Court, a Will does not get a special status by registering the same. Admittedly, it is a document which need not be registered and no law mandates such registration. The law on this issue is well settled and it has been held that just because the Will is registered, reliance cannot be placed on the same, unless it is proved in the manner indicated under the Evidence Act.”

(iii) In W.P.No.6452 of 2025 dated 26.02.2025, wherein this Court has held as follows:

4. The law on this issue is now too well settled and this Court had repeatedly held that 'Will' is not a compulsorily registrable document and therefore, the Sub Registrar cannot insist for a 'Will' to be registered. After the demise of the executor of the 'Will', the 'Will' automatically comes into force and hence, the petitioner has derived the right under the 'Will' and he wants to execute the Settlement Deed in favour of his mother.



W.P.No.17113 of 2025

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5.In view of the above judgments, this Court is inclined to set aside the impugned refusal Check Slip issued by the respondent dated 09.04.2025.

6.On this being pointed out, learned Special Government Pleader for respondent would submit that the petitioner may re-present the Settlement Deed and the same would be registered if it is otherwise in order.

7.In view thereof, the writ petition stands disposed of with liberty to the petitioner to resubmit the Settlement Deed dated 09.04.2025. Respondent shall consider the Settlement Deed and register the same, if it is otherwise in order. No Costs.

03.06.2025

Index : Yes/ No
Speaking / Non Speaking Order
Neutral Citation: Yes/No
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W.P.No.17113 of 2025

WEB COPY

The Sub Registrar,
Magudanchavadi SRO,
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W.P.No.17113 of 2025

MOHAMMED SHAFFIQ, J.

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W.P.No.17113 of 2025

03.06.2025