

Writ Petition No.14764 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2025

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.14764 of 2025

K.Janani
W/o.Prasath, D/o.Bharathi Alias,
Kalaichelva Bharathi, 39-1,
Krishnasami Naidu Street, Tpt Main
Road, Bargur, Krishnagiri-635 104,
Krishnagiri District

Petitioner

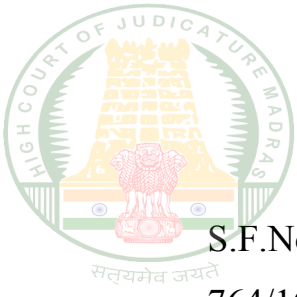
Vs

The Sub Registrar
Palacode SRO, Dharmapuri District

Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned RFL/PALACODE/48/2025 dated 17.4.2025 passed by the respondent, quash the same and consequently to direct the respondent to register the sale deed dated 17.4.2025 executed by petitioner in favour of V.Aravindan in respect of (i) 2 Ares and 84 sq. meters in S.F.No.757/3B2D and (ii) 122 Ares and 290 sq.meters in



Writ Petition No.14764 of 2025

S.F.Nos.757/3A, 757/3 B2A, 757/3B2B, 757/3B2C, 764/1A, 764/1B, 764/1C, 765/1A1 and a Well in S.F.No.757/3A, Jerthalav village, Palacode Taluk, Dharmapuri District.

For Petitioner : Mr.N.Manoharan
For Respondents : Mr.U.Bharanidharan
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned refusal check slip issued by the respondent dated 17.04.2025 and for a consequential direction to the respondent to register the sale deed dated 17.04.2025 executed by the petitioner with respect to the subject property.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondent.

3. The impugned refusal check slip has been issued by the respondent mainly on the ground that the subject property has already been dealt with by one Kalaichelva Bharathi, who is none other than the father of the petitioner. Therefore, the document presented by the petitioner for registration was not entertained.



4. The issue involved in the present writ petition is squarely covered by the earlier order dated 08.04.2025 passed by this Court in W.P.No.12331 of 2025 wherein, the same dispute between the petitioner and his deceased father was dealt with by this Court. For proper appreciation, relevant portions are extracted hereunder:

'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.

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



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Writ Petition No.14764 of 2025

*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



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Writ Petition No.14764 of 2025

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.'

5. The above order squarely covers the case on hand.

6. It is seen that the father of the petitioner, who was given life estate had dealt with the property. The same will not bind the petitioner, who is beneficiary under the Will. Hence, this dispute can only be resolved before the competent Civil Court.

7. In the light of the above discussion, the impugned refusal check slip dated 17.04.2025 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 abundantly made clear that if there is any rival claim over the same property, it can be resolved before the competent Civil Court and the order passed in this writ petition will not come in the way of rival claimants agitating their rights independently before the Civil Court.



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Writ Petition No.14764 of 2025

N.ANAND VENKATESH.J.,

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Accordingly, this Writ Petition is allowed. There shall be no order as to costs.

24.04.2025

Neutral Citation: Yes/No

Index: Yes/no

Speaking Order/Non-Speaking Order

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To

The Sub Registrar

Palacode SRO, Dharmapuri District

Writ Petition No.14764 of 2025