

W.P. No.20325 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 17.06.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.20325 of 2025

Janaki

... Petitioner(s)

Vs.

1. The Inspector General of Registration,,
O/o, The Inspector General of Registration,
Santhome High Road,
Chennai.

2. The District Registrar,
O/o District Registrar Office,
Erode District, Erode.

3. The Joint Sub Registrar,
Sub Registrar Office,
Kunnathur, Erode District.

... Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned refusal check slip Number:RFL/Kunnathur/05/2025 dated 17.04.2025 issued by the 3rd respondent and quash the same as illegal and consequently directing the 3rd respondent to accept and register the Partition Deed dated 15.04.2025 presented by the petitioner.

For Petitioner(s) : M/s.S.Sengkodi

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



W.P. No.20325 of 2025

ORDER

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The present writ petition is filed praying for a writ of certiorarified mandamus to quash the impugned refusal check slip Number: RFL/Kunnathur/05/2025 dated 17.04.2025 issued by the 3rd respondent and to consequently direct the 3rd respondent to accept and register the Partition Deed dated 15.04.2025.

2. It is submitted by the learned counsel for the petitioner, that the petitioner's father-in-law Mr.Periya Palanigounder was the absolute owner of the land comprised in Survey Nos. 34/4, 65/187/5, 147/5A, 135/1B, 142/1, 157/3, 149/3, 149/6 and 147/9. Mr.Periya Palanigounder during his lifetime executed a Will on 18.10.1983, in favour of his sons viz., Sengottaiyan and Nallasamy (petitioner's husband). After the death of Mr.Periya Palanigounder, the above said Will came into force and the petitioner's husband and his brother Sengottaiyan jointly enjoyed the property in accordance with the Will. Thereafter, petitioner's husband Nallasamy, died on 15.01.2013, leaving behind his son, daughter, wife (petitioner herein) and mother as his legal heirs.

2.1. It is submitted by the learned counsel for the petitioner that the above said legal heirs decided to execute a partition deed and made an online registration in the 3rd respondent's official portal and had received online



W.P. No.20325 of 2025

reservation token on 15.04.2025. Pursuant thereto, the petitioner along with

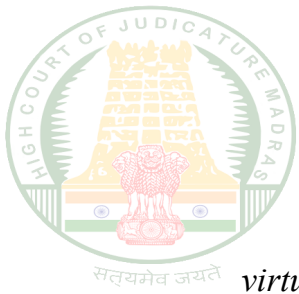
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other legal heirs submitted the original document of partition deed and other necessary documents to the 3rd respondent. After considering the petitioner's application, 3rd respondent refused to register the partition deed and issued refusal check slip No. RFL/Kunnathur/5/2025, dated 17.04.2025, on the ground that the Will dated 18.10.1983 is not registered, encumbrance certificate is not produced and the Patta, A Register did not contain the name of the petitioner.

2.2. It is submitted by the learned counsel for the petitioner that none of the above reasons would confer jurisdiction on the 3rd respondent to refuse registration. With regard to the reason that the Will dated 18.10.1983 is not registered, the learned counsel for the petitioner would place reliance on the Judgment of this Court in W.P.No.16999 of 2020, wherein it was held as under:

“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.

6.In the present case, the respondent has insisted for getting a probate with regard to the Will executed in favour of the petitioner. Insofar as probate is concerned, the same becomes mandatory only when it attracts the provisions of Section 213 of the Indian Succession Act. The property in question is situated at Kancheepuram District and the Will has also been executed at Kancheepuram District and therefore, the Will in question does not fall under the requirements of Section 213 of the Indian Succession Act and it does not require a probate for the purpose of acting upon this Will.



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7. *The petitioner is claiming the right over the subject property by virtue of the Will executed by her husband. She wants to settle the property in favour of one of her sons. Therefore, the respondent can always act upon the Will and should have taken into consideration the fact that the mother is settling the property in favour of one of her sons and there is no third party, who is getting into the transaction. If ultimately the other children of the petitioner are disputing the validity of the Will, they can always approach the competent Civil Court and put the Will to test. Till that happens, the Will is a valid document for all purposes and it can be acted upon.*

8. *In view of the above discussion, this Court is inclined to interfere with the refusal check slip issued by the respondent and accordingly, the same is hereby quashed. The respondent is directed to entertain the settlement deed dated 02.11.2020 presented by the petitioner and register the same, if it is otherwise in order. It goes without saying that necessary stamp duty and registration fee will have to be paid, at the time of registration, if not already paid. The document shall be returned back to the petitioner after registration.”*

2.3. With regard to the insistence on Patta and Encumbrance Certificate, it was submitted by the learned counsel for the petitioner that the same could not have been insisted in view of the Circular dated 12.07.2024, issued by the Inspector General of Registration. The relevant portion of which reads as under:

*“Circular
No.22482/C1/2022. Dt.12.07.2024*

a) Vide Inspector General of Registration Circular No.58804/L1/2004 dated 8.11.2004 it has been already instructed that registering officers should not insist the registrants to produce Chitta, Adangal, Rental value certificate etc. Moreover, in the said circular it was stated that if any violation is found, severe disciplinary action would be initiated against the registering officer.

Further, it is hereby reiterated that if registering officers are found to have passed an order of refusal on the grounds that the executant of a



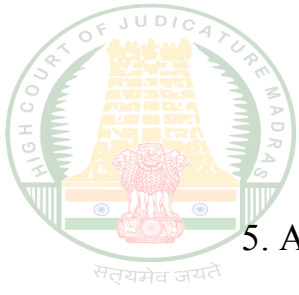
W.P. No.20325 of 2025

document has not produced Chitta, Adangal, FMB Sketch, then severe disciplinary actions will be taken.”

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3. When this was pointed out the learned counsel for the respondent would submit that the petitioner may re-present the document and the same would be registered if it is otherwise in order.

4. In view thereof, the impugned refusal check slip is set aside. It is open to the petitioner to submit the Partition Deed along with requisite documents before the 3rd respondent. If any such Partition Deed is re-presented, the 3rd respondent shall register the partition deed, if it is otherwise in order, keeping in view the order of this Court in W.P.No.16999 of 2020, dated 13.12.2020 and the Circular dated 12.07.2024. If for any reason the registration of partition deed is sought to be rejected, the 3rd respondent would do so after issuing refusal slip assigning reasons. It is made clear that this Court has not expressed any views with regard to the merits of the case and it is open to the concerned respondent to consider the matter on its own merits and in accordance with law.



W.P. No.20325 of 2025

5. Accordingly, the writ petition stands disposed of. No costs

WEB COPY

17.06.2025

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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To:

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O/o, The Inspector General of Registration,
Santhome High Road,
Chennai.
2. The District Registrar,
O/o District Registrar Office,
Erode District, Erode.
3. The Joint Sub Registrar,
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Kunnathur, Erode District.



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W.P. No.20325 of 2025

MOHAMMED SHAFFIQ, J.

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W.P. No.20325 of 2025

17.06.2025