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W.A.No.3764 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE P. DHANABAL

W.A.No.3764 of 2024

and

C.M.P.No.29637 of 2024

1.G.Raviraj

2.Minor Boovan Raj

Represented by Executor

G.Raviraj

... Appellants

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Raja Annamalaipuram,
Chennai – 600 028.

2.The Deputy Inspector General of Registration,
No.100, Santhome High Road,
Raja Annamalaipuram,
Chennai – 600 028.



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3.The District Registrar (Admin)
North Chennai,
O/o.District Registrar,
Chennai – 600 108.

4.The Sub-Registrar,
SRO Madhavaram,
Chennai.

5.Prem Kumar

6.Charulatha Mannar Devendran

7.M.R.Devendran

... Respondents

Prayer:- Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 27.06.2024 in W.P.No.12879 of 2024 on the file of this Court.

For Appellants : Mr.P.Thilagar
for M/s.M.Sakthiguruchitra

For R1 to R7 : Mr.B.Vijay
Additional Government Pleader

For R5 to R7 : Mr.R.Krishnaswamy



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J U D G M E N T

(Judgment was delivered by **S.S. SUNDAR, J.**)

This Writ Appeal is directed against the order of the learned Single Judge dated 27.06.2024 made in W.P.No.12879 of 2024, dismissing the writ petition filed by the appellants for issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent dated 29.04.2022 and quash the same and to direct the 2nd respondent to consider the representation of the writ petitioners dated 30.09.2022 and to cancel the settlement deed executed by the 5th respondent in favour of the 6th respondent in the writ petition and the consequential document, viz., the Power of Attorney Deed executed by the 6th respondent in favour of the 7th respondent.

2.Brief facts that are necessary for the disposal of this Appeal are as follows :

The 5th respondent, claiming to be the legal heir of one Late Baby Perumal, executed a settlement deed in favour of the 6th respondent in



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respect of the Undivided Share in respect of the subject property, and the 6th respondent executed a Power of Attorney Deed in favour of the 7th respondent and the said documents were registered before the 4th respondent. The case of the appellants is that the deceased executed a registered Will in favour of the 2nd appellant, who is a minor represented by the 1st appellant. It is admitted that the 5th respondent has filed a suit in O.S.No.123 of 2022 on the file of the Additional District Court, Ponneri, for partition of the property. It is the case of the appellants that the 5th respondent has suppressed the execution of the Will by the deceased and the fact that the 5th respondent has no right or title over the property.

3.Since the prayer in the writ petition is only for cancellation of registered documents, the learned Single Judge dismissed the writ petition holding that it is for the competent Civil Court to decide the genuineness of the Will and that the registered documents cannot be quashed or set aside in a writ petition holding the character of Will or the right and title of individual parties. Challenging the order in the writ petition, this Writ Appeal is filed by the writ petitioners.



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4.Learned counsel appearing for the appellants submitted that fraud has been played by the private respondents. Learned counsel further submitted that the 5th respondent has suppressed the execution of the Will even in the suit for partition which is pending.

5.This Court need not go into all the factual issues as to the validity or genuineness of the Will at the present. The question whether the Will requires probate or not is also a matter which can be agitated before the Civil Court. The learned Single Judge is right in holding that the Civil Court alone is competent to decide the genuineness of the Will. Assuming for a moment, the respondents have suppressed the execution of the Will, that will not prevent the appellants from establishing their independent right under the Will. Therefore, this Court finds no merit in this Writ Appeal.

6.Leaving it open to the appellants to agitate all their objections as to the validity of the settlement deed and Power of Attorney Deed and to establish the genuineness of the Will before the Civil Court, this Writ



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Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R., J.) (P.D.B., J.)
02.01.2025

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Internet : Yes

Index : Yes

Neutral Citation : Yes

To

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- 2.The Deputy Inspector General of Registration,
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