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W.P.No.30217 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.30217 of 2025

Thangamani

... Petitioner

Vs.

1.The District Registrar,
Namakkal.

2.The Sub-Registrar,
Pallipalayam,
Namakkal District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records of 2nd Respondent in RFL/Pallipalayam/39/2025 dated 22.07.2025 quash the same, consequently direct the respondents to register my settlement deed dated 22.07.2025.

For Petitioner : Mr.S.N.Subramani

For Respondents : Mr.U.Baranidharan,
Special Government Pleader
for R1 & R2.



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ORDER

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

2. This Writ Petition is filed challenging the impugned Refusal Check Slip dated 22.07.2025 whereby the settlement deed which was presented for registration on 22.07.2025 was refused registration on the premise that the Will on the basis of which the title is traced is neither probated nor registered.

3. Mr.Abishek Murthy, learned Government Advocate takes notice for the respondents.

4. The learned counsel for the petitioner would submit that the above reason to refuse registration is contrary to the law laid down by this Court on more than one occasion wherein, it has been consistently held that Will deed need not be registered nor probated. In this regard, he would place



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reliance upon the following Judgment of this Court in ***W.P.(MD) No.11386 of 2024 dated 29.05.2024*** wherein, it is held as under:-

“2. A perusal of the impugned Refusal check slip indicates that the sale deed reflects to an unregistered will dated 23.09.2020 as a source of title and since the said will has not been probated, the sale deed returned to be represented after obtaining probate from the competent Court.

3. The learned counsel appearing for the writ petitioner relied upon the judgment of this Court in W.P.(MD).No.5760 of 2023, dated 16.03.2023, to impress upon the Court that the property being located in Tuticorin and he Will also executed only in Tuticorin and the parties are Hindus, the Will does not repute any probate from competent Court. Paragraph No.3 of the said order is extracted as follows:

“3.That order has to be interfered with by this Court, since a 'Will' need not be registered. Section 57 of the Indian Succession Act, 1925, also gives exceptions for grant of probate of a 'Will' for properties which are situated outside the city limits of Chennai. The 'Will' need not be registered. A 'Will' can be written down. All that requires is attestation under Section 68 of the Indian Evidence Act. Even if registered, it does not mean that the 'Will' had been proved in the manner known to law. The 'Will' has been executed in this instant in the year 2001 and had come into effect on the date of the death of the father. The Sub Registrar therefore, cannot raise question about the registration of the 'Will' or seek probate of the 'Will'. The said reasons are set aside.”



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5. The learned counsel for the petitioner also relied upon the judgment passed by this Court in ***W.P.No.33045 of 2023 dated 23.11.2023***.

The relevant portion of the Judgment is extracted hereunder:-

“4. The learned counsel for the petitioners also relied on the order dated 16.03.2023 in W.P.No.(MD) No.5760 of 2023 and order dated 03.07.2023 in W.P.no.12671 of 2023 passed by this Court.”

6. He further placed reliance upon the Judgment passed by this Court in ***W.P.No.16999 of 2020 dated 03.12.2020*** wherein, it is 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



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Kancheepuram District and thereafter, 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.

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 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.”

7. This Court find merits in the submissions made by the learned counsel for petitioner.

8. The learned Special Government Pleader appearing for respondents 1 & 2 would submit that the petitioner may re-present the document namely, settlement deed and on such re-presentation, the settlement deed would be registered, if it is otherwise in order. If for any reason, registration is refused, a check slip would be issued after assigning reason, which was



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agreed to by learned counsel for petitioner.

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9. In view thereof, the impugned Refusal Check Slip dated 22.07.2025 is set aside. It is open to the petitioner to re-present the settlement deed for registration and on such representation the same would be registered if it is otherwise in order. If for any reason, registration of settlement deed is sought to be refused, the same would be done by issuing a refusal slip assigning reason.

10. With the above observation and direction, this Writ Petition stands disposed of. No costs.

20.08.2025

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

Nhs



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To

1.The District Registrar,
Namakkal.

2.The Sub-Registrar,
Pallipalayam,
Namakkal District.



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MOHAMMED SHAFFIQ, J.

Nhs

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