



WEB COPY



WP No. 1903 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.01.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 1903 of 2025

G.Thiruvengadam

... Petitioner

Vs

1 The Inspector General of Registration,
No. 100, Santhome High Rd, Mullima Nagar,
Mandavelipakkam, Raja Annamalai Puram,
Chennai- 600028.

2 The Sub- Registrar,
Combined Sub-Registrar Office,
Sabai Colony, Sembalkam,
Rajakilpakkam, Chennai- 600073

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking to issue Writ of Mandamus, to direct the 1st Respondent to consider the representation dated 17.12.2024 to direct the 2nd Respondent to register the unregistered will dated 12.02.2013.

For Petitioner

: Mr.L.Infant Dinesh

For Respondents 1 and 2

: Mr M.Shahjahan,
Special Government Pleader



WP No. 1903 of 2025

WEB COPY

ORDER

This writ petition has been filed seeking a mandamus, directing the 1st respondent to consider the representation dated 17.12.2024 and to register the unregistered Will dated 12.02.2013.

2. The petitioner would submit that, in the year 2004, her husband's younger brother K.S.Thyagarajan had purchased a property to an extent of 1210 sq.ft. situated at No.170, Mallika Nagar, Irumbuliyur Village, Tambaram Taluk, Kancheepuram registered as Document No.4562 of 2004 on the file of the 2nd respondent. The petitioner would further submit that her husband, K.S.Gopinath took care of his brother for 4 years until his death on 05.05.2014. Out of love and affection, the said Thyagarajan had executed an unregistered Will dated 12.02.2013 for the above said property in favour of the petitioner's husband K.S.Gopinath. Her husband was in peaceful possession and enjoyment of the above said property till his death on 30.06.2021 and had left behind him surviving, the plaintiff and his adopted daughter. The petitioner approached the 2nd respondent to register the unregistered Will in favour of herself and her daughter. However, the



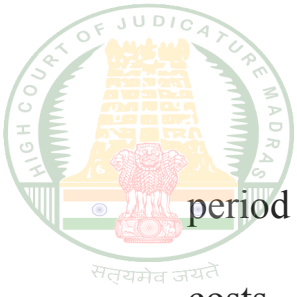
WP No. 1903 of 2023

2nd respondent had refused to register the Will on the ground that both the testator and the beneficiary were not alive at the time of presentation of Will. The petitioner gave a representation to the 1st respondent in this regard. However, no action was taken to date. Hence, this Writ Petition.

3. Heard the learned counsels on either side and perused the materials available on record.

4. Section 40 of the Registration Act, 1908 deals with **Persons entitled to present wills and authorities to adopt** wherein Sub Section (1) states that the testator, or after his death any person claiming as executor or otherwise under a will, may present it to any Registrar or Sub Registrar for registration. The petitioner would fall under the category "Otherwise" contained in Section 40(1) as she is the legal heir of the beneficiary in the Will.

5. The first respondent shall consider the representation of the petitioner in the light of Section 40(1) of the Registration Act within a



WP No. 1903 of 2025

period of 2 months from the date of receipt of a copy of this order. No costs.

WEB COPY

28.01.2025

Index: Yes/No

Speaking order/non-speaking order

Neutral Citation: Yes/No

srn

To,

- 1 The Inspector General of Registration,
No. 100, Santhome High Rd, Mullima Nagar,
Mandavelipakkam, Raja Annamalai Puram,
Chennai- 600028.
- 2 The Sub- Registrar,
Combined Sub-Registrar Office,
Sabai Colony, Sembalkam,
Rajakilpakkam,
Chennai- 600073



WEB COPY



WP No. 1903 of 2025

P.T.ASHA, J.,

srn

W.P.No. 1903 of 2025

28.01.2025