



W.P(MD)No.2956 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 03.02.2025

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Writ Petition(MD)No.2956 of 2025

S.Kannan

..Petitioner

Vs

1.The District Registrar,
District Registrar Office,
Sivagangai,
Sivagangai District.

2.The Sub Registrar,
Sub Registrar Office,
Manamadurai,
Sivagangai District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the refusal check slip in RFL/Manamadurai/1/2025 dated 06.01.2025 issued by the 2nd respondent and quash the same as unlawful and unsustainable, consequently, directing the 2nd respondent to register the proposed settlement deed dated 06.01.2025 as and when the same is presented by the petitioner and arbitrary.

For Petitioner : Mr.B.Ashok Kumar
For Respondents : Mr.R.Sureshkumar
Addl. Govt. Pleader



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ORDER

The writ petitioner seeks issuance of a Writ of Certiorarified Mandamus to quash the proceedings of the second respondent dated 06.01.2025, whereby the second respondent has refused to register the settlement deed executed by the petitioner Mr.S.Kannan in favour of his wife Mrs.Santhi Kannan.

2. The petitioner concedes that the property belongs to one P.S.Subramania Iyer. He states that the said Subramania Iyer had executed a “WILL” dated 29.10.2022 in his favour and that the same was registered on the file of the Sub Registrar, Villivakkam. He pleads that the said Subramania Iyer passed away on 10.02.2023 and that the “WILL” had come into force. Pursuant thereto, he had executed a settlement deed in favour of his wife on 06.01.2025. However, the Sub Registrar refused to register the document. Hence, this petition.

3. I heard Mr.B.Ashokkumar for the petitioner and Mr.R.Sureshkumar, learned Additional Government Pleader appearing for the respondents.

4. It is not in dispute that the “WILL” has been executed within the city limits of Chennai. As per Section 57 of the Indian Succession Act, a document



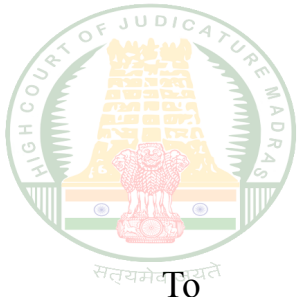
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in the nature of the “WILL” or testament executed within the limits of the city of Chennai has to obtain a certificate of probate or letters of administration from this Court on its Original Side. It is not in dispute that the petitioner has not obtained any probate or letter of administration. When that being the position, unless and until the petitioner proves the said “WILL”, he is not entitled to claim a right over the same and execute a document in favour of his wife. This is because no right as an executor or legate can be claimed, unless the said document has been certified as true and genuine in probate proceedings.

5. In the light of the above discussion, leaving it open to the petitioner to obtain appropriate certificate for the “WILL” dated 29.10.2022, this Writ Petition is dismissed. It is always open to the petitioner to get the order of probate or letter of administration and thereafter, to execute a settlement deed and register the same. No costs.

03.02.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes
skn



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To

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District Registrar Office,
Sivagangai,
Sivagangai District.

2. The Sub Registrar,
Sub Registrar Office,
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V.LAKSHMINARAYANAN, J.

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