

W.P.(MD) No.3280 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.02.2025

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD) No.3280 of 2025

R.Mahendran

... Petitioner

Vs.

1.District Registrar,
Virudhunagar,
Virudhunagar District.

2.The Sub-Registrar,
Tiruchuli Sub-Registrar Office,
Virudhunagar District.

3.The Inspector of Police,
M.Reddiapatti Police Station,
Virudhunagar District.

4.Saroja

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the first respondent in ந.க.எண். 5149/ஆ.5/2024 dated 25.11.2024 and setting aside the same and directing the first respondent to conduct the enquiry in Document No.2187/2020 dated 12.11.2020 and also directing the third respondent to register the case if offence is made out against the fourth respondent.



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For Petitioner : Mr.J.Senthil Kumar
For R1 & R2 : Mr.R.Suresh Kumar
Additional Government Pleader
For R3 : Mr.K.Gnana Sekaran
Government Advocate (Crl. Side)

ORDER

This Writ Petition seeks for a Writ of Certiorarified Mandamus to quash the proceedings of the first respondent in न.क.गण.5149/अ.5/2024 dated 25.11.2024 and to direct the first respondent to conduct an enquiry with respect to Document No.2187/2020 dated 12.11.2020.

2. There is no dispute that the mother of the petitioner had purchased the property from one Paulraj on 02.05.1988 by way of a registered Sale Deed in Document No.383/1988. Subsequently, the petitioner came to know that his elder brother had obtained a Will in Document No.2187/2020 dated 12.11.2020. He pleads that, on the strength of the 'Will', his elder brother executed a Settlement Deed in favour of his son, Dharaneetharan, in Document No.69/2021 dated 13.01.2021. He also pleads that his mother never executed the document in favour of his elder brother. The petitioner lodged a complaint with the

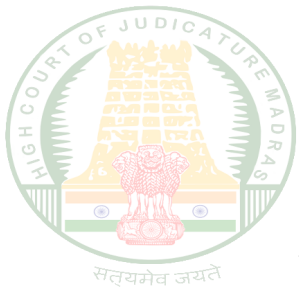


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first respondent, the District Registrar of Virudhunagar District, and also with the third respondent, the Inspector of Police, M.Reddiapatti Police Station.

3. During the course of enquiry, it came to the knowledge of the authorities that a suit in O.S.No.288 of 2023 on the file of the learned Sub Judge at Aruppukottai, had been presented by the petitioner seeking for a declaration that the document executed by the petitioner's mother in favour of his elder brother is null and void and not binding on him. Simultaneously, the petitioner pursued the complaint that was submitted to the first respondent and also to the third respondent. The first respondent, taking note of the fact that Section 77-A of the Registration Act, 1908 has been struck down by this Court as unconstitutional, rejected the plea of the petitioner. Hence, this Writ Petition.

4. I have heard Mr.J.Senthil Kumar for the petitioner, Mr.R.Suresh Kumar, Additional Government Pleader, for the first and second respondents and Mr.K.Gnana Sekaran, Government Advocate, for the third respondent.



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5. It is not in dispute that the suit in O.S.No.288 of 2023 is pending before the learned Sub Judge at Aruppukottai. The plea of the petitioner that the document had not been executed by his mother in favour of his brother, being a subject matter of civil litigation, makes it inappropriate for the administrative authorities to invoke their power and deal with the same issue. The petitioner is not remediless. It is always open to him to file an application before the Civil Court under Order 26 Rule 9 of the CPC read with Section 45 of the Indian Evidence Act, 1872, and seek for a direction from the learned Subordinate Judge to send the document for forensic opinion on the fingerprints. If such an application is filed, considering the averments of the petitioner, the learned Subordinate Judge will consider the same and pass appropriate orders. No exception can be taken to the order of the first respondent refusing to invoke his powers, as the Section which could have conferred jurisdiction to enquire into the matter has been struck down as unconstitutional by this Court.

6. The learned Government Advocate (Criminal Side), appearing for the third respondent, points out that before the police enquiry was conducted, both parties had accepted that they would work out their rights before the Civil Court.



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WEB COPY 7. Leaving it open to the petitioner to work out his rights as set forth above or take such other measures as he will be advised, this Writ Petition is dismissed. No costs.

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Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

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V.LAKSHMINARAYANAN, J.

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