

W.P.(MD).No.9565 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.04.2025

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD).No.9565 of 2025

Deepalakshmi

.. Petitioner

Versus

1.The Joint Sub Registrar No.2,
Office of Sub Registrar,
Dindigul,
Dindigul District.

2.Leela

3.Sabitha

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking Writ of Certiorarified Mandamus calling for the records pertaining to the impugned Refusal slip in Refusal Number : RFL/No 2 Joint Sub Registrar Dindigul/34/2025 dated 17.03.2025 issued by the first respondent and quash the same as illegal and arbitrary and consequently direct the first respondent to register the settlement deed dated 17.03.2025 presented by the petitioner for registration within the time fixed by this Court.

For Petitioner : Mr.P.Suresh

For Respondent 1 : Mr.N.Ramesh Arumugam,
Government Advocate

For Respondents 2 & 3 : Mr.Rajarajan



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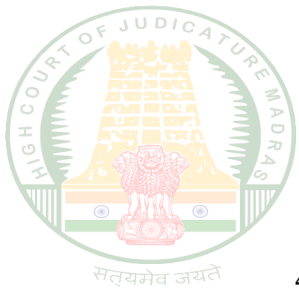
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ORDER

The petitioner is the wife of one Suresh Kumar. The said Suresh Kumar had purchased the property situated in S.No.121/1A at Kurumbapatti Village, Dindigul West Taluk, Dindigul District on 14.06.2021. The document was registered as document No.3461 of 2021.

2. The petitioner pleads that as Suresh Kumar was suffering from High Blood Pressure and Diabetes, he decided to put his affairs in order even during his lifetime. Accordingly, he executed a “UNREGISTERED WILL” on 21.10.2022 bequeathing the aforesaid property in favour of his wife-writ petitioner. The said Suresh Kumar passed away on 23.10.2022 leaving behind as his legal heirs his mother - Leela, his wife - the writ petitioner and his minor son, UditNarayanan.

3. The petitioner, relying on the strength of the “**WILL**” executed by Suresh Kumar, wanted to execute a settlement deed in favour of her minor son, Udit Narayanan. Accordingly, she presented the settlement deed on 17.03.2025. The said presentation was refused by the respondents under the impugned order.



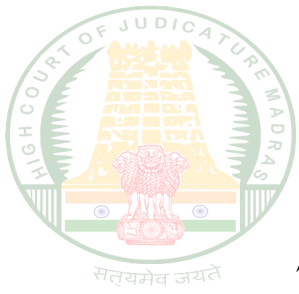
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4. The respondents pointed out that as no probate had been obtained for the “**WILL**” and as the petitioner had not complied with the requirements of Section 41 of the Registration Act read with Rule 69 of the Registration Rules, the deed cannot be registered. Further the first respondent added as the original “**WILL**” had not been produced before the Registrar, he will not register the Settlement Deed. Challenging the same, the present writ petition.

5. I heard Mr.P.Suresh for the petitioner, Mr.Ramesh Arumugam for the first respondent, and Mr.Rajarajan for the respondents 2 and 3.

6. Mr.P.Suresh reiterated the contentions made in the affidavit. Mr.Rajarajan, appearing for the respondents 2 and 3 pleads that the respondent No.2 has no objection for the alienation of 2/3rd share which came about on account of the death of Suresh Kumar, but she has serious objection for her 1/3rd share also been included in the alienation. The argument of Mr.Rajarajan in effect is that Suresh Kumar died intestate, and that the “**WILL**” is not true and genuine.



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7. It is not in dispute that the parties are already before the learned Principal District Judge at Dindigul seeking probate of the “**WILL**”. Whether the “**WILL**” is true and genuine or not capable of being granted a certificate of probate is a matter which has to be gone into only by the jurisdictional Civil Court. The fact that the second respondent is making an objection does not mean the respondents should reject the settlement deed outright.

8. As the “**WILL**” has been executed in the mofussil, for properties in such areas, probate of the “**WILL**” or registration of “**WILL**” as required under Section 41 of the Registration Act read with Rule 69 of the Registration Rules are only optional. It is not mandatory to register a “**WILL**” nor essential to obtain a probate of the “**WILL**” executed outside the city of Madras and dealing with the properties situated outside the city of Madras. That being the position, leaving it open to the parties to work out their remedies before the jurisdictional Civil Court, the impugned order is set aside.

9. The impugned refusal slip in Refusal Number : RFL/No 2 Joint Sub Registrar Dindigul/34/2025 dated 17.03.2025 is quashed. There shall be a



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direction to the respondents to register the settlement deed presented by the writ petition in favour of her minor son, Udit Narayanan within a period of two weeks from the date of uploading this order on the website of this court. The writ petition is ordered. No costs.

07.04.2025

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Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no

To

1.The Joint Sub Registrar No.2,
Office of Sub Registrar,
Dindigul,
Dindigul District.



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V.LAKSHMINARAYANAN, J.

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