



W.P(MD)No.15272 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.07.2025

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.15272 of 2025

and

W.M.P(MD)No.11563 of 2025

1. Kannan

2. Sakthivel

... Petitioners

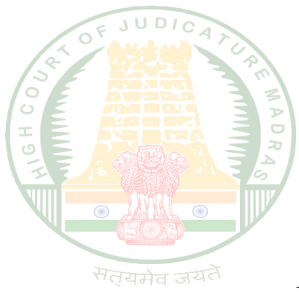
Vs

1. The Sub Registrar,
Joint No.II Sub Registrar Office,
Karaikudi,
Sivagangai District.

2. Balamurugan

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned refusal order passed by the 1st respondent herein in his proceedings in Na.Ka.No.204/2025 dated 27.05.2025 served upon us on 29.05.2025 and Quash the same as illegal and further direct the 1st respondent herein to register the partition deed dated 03.05.2025 presented by the petitioners herein within a time stipulated by this Court.



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For Petitioner : Mr.V.Meenakshi Sundaram

For R-1 : Mr.S.Kameswaran
Government Advocate

For R-2 : Mr.R.Sundar Srinivasan

ORDER

The present Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, to quash the impugned order dated 27.05.2025 and consequently direct the first respondent herein to register the partition deed dated 03.05.2025.

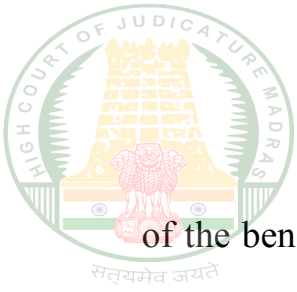
2. The first respondent has passed the impugned order stating that there is an objection by the second respondent. The petitioner is claiming title through a Will dated 09.02.2006. The second respondent alleges that the said Will is a forgery, since the signature is not affixed in all the sheets. Further, it is contended that the Will has not been probated and the existence of the Will was not intimated to the second respondent. Further stated that some of the properties were issued under joint patta and some of the properties are still in the name of the testators. Furthermore, there is no mutation of records. For all these reasons the first respondent has refused to register the partition deed.



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3. The brief facts are that one Rakappan was the original owner of the several properties. The said Rakappan had inherited the some of the properties through three partitions between the brothers on 01.04.1963, 21.04.1979 and 23.04.1991 and some of the properties through Will dated 16.12.1974 which was executed by the said Rakappan's brother. Thereafter, the said Rakappan was in possession and enjoyment of the same. Then the said Rakappan had executed Will dated 09.02.2006, in which he had bequeathed the "A" schedule in favour of minor Balamurugan son of Krishnan (grandson through 1st son), "B" schedule in favour of petitioners (grandsons through Seenivasan) and "C" schedule to Rajaram (son of Rakappan and at that point of time there was no children for Rajaram). In short, the petitioners and the second respondent are grandsons of the said Rakappan. As per the said Will, Schedule A property was bequeathed to the second respondent and Schedule B property was bequeathed to the petitioners. Thereafter, the said Rakappan died on 05.08.2007 and the Will had come into effect, then onwards the petitioners are in possession and enjoyment of the properties for the last 18 years. However, the revenue records still in the name of the Rakappan. The petitioners have now subdivided their share of the property among themselves and entered into a partition deed dated 03.05.2025 and presented the same for registration. But it was informed to the petitioners that one



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of the beneficiaries of the Will namely Balamurugan son of Krishnan, the second respondent herein submitted an objection dated 14.05.2025.

4. The contention of the petitioner is that the second respondent is one of the beneficiaries in the said and he has no ground to submit such objection. Further the second respondent has not filed any suit to declare the Will as null and void.

5. The second respondent had filed counter stating that the second respondent has doubted the genuineness of the Will. The Learned Counsel appearing for the second respondent submitted that under Section 5(1) of the Patta Passbook Act, unless patta is transferred in the name of the petitioners, the registering authorities cannot register any deed including partition.

6. Per contra, the learned Counsel appearing for the petitioners submitted that the present transaction is only a partition and there is no division of plot and there is no transfer of rights from one person to another person, thus not attracting the Transfer of Property Act. Further he relied on Section 5(1) of Patta Passbook Act wherein it is stated that no documents can be transferred by way of sale, gift, mortgage, exchange, settlement or otherwise. The said provision is not covering the partition.



WEB COPY 7. After hearing the rival submissions, the Court is of the considered opinion that the contention of the second respondent that he is doubting the genuineness of the Will cannot be accepted. If he is really doubting, by this time he ought to have filed suit challenging the genuineness of the Will. As on date the second respondent had not filed any such suit. Therefore, the second respondent objection ought to be rejected.

8. The next contention of the second respondent is that under section 5(1) of the Patta Pass Book Act unless the patta is changed, the documents cannot be registered. In order to consider the said plea, the relevant portion of the provision is extracted hereunder:

“5. Making of entries of registration of alienation or transfer in the patta pass book.— (1) No document relating to transfer of any land by sale, gift, mortgage, exchange, settlement or otherwise shall be registered by the registering authority, unless the patta pass book relating to such land is produced before such registering authority.”

The said provision only states that the person intended to register the deed ought to produce the patta pass book relating to the land. The provision does not state that the patta should stand in the name of the executor of the document. The



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object of the Act is to issue Patta Pass Book to the holders of the agricultural lands. The said provision is to have corresponding entry in the revenue records so that the genuineness of the person could be ascertained. Therefore, the contention of the second respondent unless patta changed in the name of petitioners, the petitioners are not entitled to deal with the property is an erroneous and irrelevant argument. In fact in the present case, the patta still stands in the name of the grandfather Rakappan only and not in the name of third parties. Therefore, this Court is rejecting the contention of the second respondent.

9. For the sake of the arguments, even if the argument of the second respondent is accepted, the first respondent cannot adjudicate the issue. If the first respondent is permitted to adjudicate, then it is allowing the first respondent to act as a Civil Court, which is not permitted under law.

10. Further the objection of the second respondent is only “third party” objection. The respondent cannot refuse registration based on third party objection.

11. Therefore, the impugned order is quashed. The petitioner is directed to re-present the partition deed, within a period of two weeks from the date of receipt



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of a copy of this order. On such re-presentation, the respondent shall register the partition deed within a period of four (4) weeks therefrom.

12. With the above directions, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

16.07.2025

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

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To:

The Sub Registrar,
Joint No.II Sub Registrar Office,
Karaikudi,
Sivagangai District.



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S.SRIMATHY, J.

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ORDER MADE IN
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DATED : 16.07.2025