



W.P.(MD)No.15865 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 12.03.2025

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.(MD)No.15865 of 2024

Natarajan

... Petitioner

VS.

The Sub-Registrar,
Manamadurai, Sivagangai District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned refusal check slip No.RFL/Manamadurai/2/2024 dated 21.05.2024 on the file of the respondent and quash the same and consequently directing the respondent to receive and register the settlement deed dated 19.07.2023 executed by him.

For Petitioner	:Mr.Adhithya for Mr.G.Prabhu Rajadurai
For Respondent	: Mr.N.Ramesh Arumugam Government Advocate



W.P.(MD)No.15865 of 2024

WEB COPY

ORDER

The petitioner states that the property in Door No.10/9 (Old Door No.10/88) situated in S.No.44/173, Gunduraya Street, Old Ward No.10, New Ward No.11, Keelakarai, Manamadurai Taluk, Sivagangai District, belongs to his father's elder brother's wife one Jegathavalli Ammal. The said Jegathavalli Ammal's husband and children pre-deceased her. She executed a “WILL” in favour of the writ petitioner on 29.06.2018. She died on 31.12.2019. On the death of Jegathavalli Ammal, the petitioner pleads he became the owner of the property. He executed a settlement deed in favour of his wife on 19.07.2023. When the document was presented for registration, the Sub-Registrar refused to register the same as the “WILL” had not yet obtained a certificate of probate.

2. Challenging the same, the petitioner filed W.P(MD).No.25433 of 2023. The said writ petition was disposed of in the following terms:

9. I therefore dispose of the writ petition in the following terms: The petitioner is permitted to re-present the settlement deed before the respondent. The petitioner shall also produce the legal heir certificate of the deceased Jegathavalli Ammal. The registering authority will issue notice to all the legal heirs



WEB COPY



W.P.(MD)No.15865 of 2024

of Jegathavalli Ammal. If other legal heirs do not contest the petitioner's claim on the property based on the Will dated 29.06.2018 the document in question can be registered. If the other legal heirs challenge the genuineness of the Will propounded by the petitioner, the petitioner has to necessarily move the jurisdictional civil Court for relief. Only after the petitioner obtains declaration in his favour over the petition mentioned property, the document can be re-presented for registration. The petitioner is permitted to approach the jurisdictional Tahsildar for issuance of legal heir certificate. The jurisdictional Tahsildar will entertain the petitioner's application, hold enquiry and issue certificate within a period of ten weeks thereafter. There shall be no order as to costs.

3. Pursuant to the said order, the petitioner approached the Tahsildar and obtained a legal heirship certificate. The Tahsildar listed the class I, legal heirs of Jegathavalli Ammal, namely, her husband and children. Yet again, the petitioner presented the settlement deed, which was refused to be registered by the respondent on 21.05.2024. Hence, the present writ petition.

4. Heard Mr.Adhithya for the petitioner and Mr.Ramesh Arumugam, learned Government Advocate, who takes notice for the respondent.

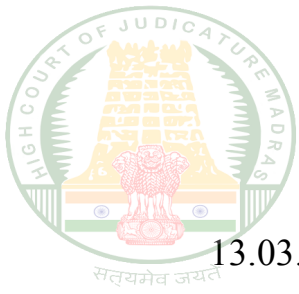


W.P.(MD)No.15865 of 2024

5. Mr.Adhithya pleads that pursuant to the order of this Court, the petitioner had approached the Tahsildar and obtained a legal heirship certificate. In obedience to the order of this High Court, the petitioner presented the document for registration along with the legal heirship certificate. He states that the Tahsildar is not empowered to issue a legal heirship certificate for class-II heirs and hence, the Sub-Registrar can issue summons to his siblings and convince himself regarding the validity of the “WILL” and thereafter, register the settlement deed.

6. Per contra, Mr.N.Ramesh Arumugam states that the order of the High Court dated 16.11.2023 is clear. The registering authority should enquire with the class-II heirs of the deceased Jegathavalli Ammal and thereafter, conclude whether the “WILL” projected by the petitioner is accepted by the Class-II heirs and only thereafter, proceed to register the settlement deed. Hence, he states that the order of the impugned order does not require any interference.

7. He also points out that in terms of G.O.Ms.No.110, Revenue and Disaster Management, Revenue Administration Wing RA-3(2), dated



W.P.(MD)No.15865 of 2024

13.03.2024, the jurisdictional Tahsildar can give a certificate, if both the spouses and the parents of the deceased have died, leaving behind only siblings. He states that original Government Order, that had been issued by the Government in G.O.Ms.No.478, Revenue and Disaster Management Department, dated 29.09.2022, stands amended by virtue of the present Government Order. He states that if the petitioner produces the legal heirship certificate for Class-II legal heir of the deceased Jegathavalli Ammal, the Sub-Registrar will enquire with them and proceed in accordance with the order of this Court dated 16.11.2023.

8. I have carefully considered the submissions made by both sides and gone into the records.

9. The respondent is not empowered to reject a document on the basis of the fact that a “WILL” has not been probated. However, in the facts of this case, the petitioner approached this Court and has obtained the order as extracted above. Even at the time of order being passed, this Court was apprised of the fact that Jegathavalli Ammal does not have any direct legal heir and has left behind only class-II legal heirs.



W.P.(MD)No.15865 of 2024

10. Taking cognizance of the same, this Court directed the petitioner to obtain the legal heirship certificate regarding class-II legal heirs and thereafter, present the document for registration. Instead of producing the class-II legal heirship certificate, the petitioner has produced the legal heirship certificate of the class-I, who have admittedly pre-deceased Jegathavalli Ammal.

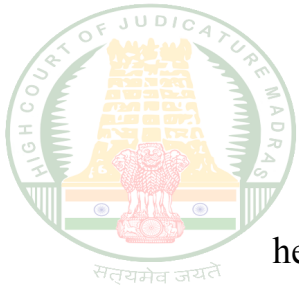
11. The attempt made by the petitioner is only partial compliance with the order of this Court. Hence, following the orders of this Court in W.P(MD).No.25433 of 2023, dated 16.11.2023, I am giving the following directions:-

(i) The petitioner shall obtain class-II legal heirship certificate for the deceased Jegathavalli Ammal;

(ii) Thereafter, he shall present the settlement deed with the respondent;

(iii) The respondent shall send summon to all the class-II legal heirs whose names are found in the legal heirship certificate;

(iv) The Sub-registrar shall enquire with the other legal



W.P.(MD)No.15865 of 2024

WEB COPY

heirs as to whether they are accepting the validity of the “WILL”
dated 29.06.2018; and

(v) If the other legal heirs accept the validity of the
“WILL”, the respondent shall proceed to record and register the
settlement deed.

12. With the above directions, this Writ Petition is disposed of. No
costs.

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

12.03.2025

To

The Sub-Registrar,
Manamadurai, Sivagangai District.



WEB COPY



W.P.(MD)No.15865 of 2024

V. LAKSHMINARAYANAN, J.

Rmk

W.P.(MD)No.15865 of 2024

12.03.2025