



W.P(MD)No.30243 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.10.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.30243 of 2025

Velusamy

... Petitioner

Vs.

1.The Inspector General of Registration,
O/o.Inspector General of Registration,
Registration Department,
No.100, Santhom High Road
Chennai - 600 028.

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

3.The Sub Registrar,
Nainar Kovil Sub Registrar Office,
Paramakudi,
Ramanathapuram District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 3rd respondent to register the will dated 18.08.2016 executed by Petitioners father late Mr.Kathigai Rasu on presentation by Petitioner based on Petitioners representation dated 15.10.2025 within the time that may be stipulated by this Court.



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For Petitioner : Mr.K.Yasar Arafath

For Respondents : Mr.D.Gandiraj,
Spl. Government Pleader

ORDER

Heard both sides.

2.The writ petitioner states that his father had executed an unregistered Will in his favour on 18.08.2016 and that it has come into force after his father's demise on 06.09.2018. The petitioner wants to register the same now. The registering authority declined to entertain the same. Hence, this writ petition has been filed.

3.The question that calls for consideration is whether a Will can be registered after the demise of the testator.

4.This issue is no longer *res integra*. A learned Judge of this Court vide order dated 09.09.2021 in W.P.(MD)No.15950 of 2021 (**R.Vellaisamy Vs. The Inspector General or Registration, Chennai – 600 028**) had held as follows:-



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“5.The other aspect to be considered is whether a Will dated 10.06.2008 can be registered after the lapse of about 13 years. Section 23 of the Registration Act, which prescribes a time limit for registration is made expressly inapplicable to a Will. In addition, Section 27 thereof specifies that “A Will may at any time be presented for registration or deposit in manner herein after provided”. As such, there does not appear to be any time limit as regards the registration of a Will. However, in case a person intends to register a Will after the death of the testator, such person should satisfy the registering authority that he fulfils the requirements of Sections 40 and 41 of the Registration Act. In addition, the procedure in relation to such registration is set out in Chapter XIII of the Tamil Nadu Registration Rules. Therefore, such procedure would have to be adopted in case the petitioner re-submits the Will for registration.”

5.I also had an occasion to deal with the same issue. I took note of Section 41 of the Registration Act, Rules 69 and 72 of the Tamil Nadu Registration Rules, 1983, vide order dated 20.01.2023 in W.P.(MD)No. 17835 of 2022 (***Shankari vs The Inspector General of Registration***). The relevant extracts are as follows :

“4. ...In ***Lanka Lakshmanna vs. Lanka Varthanamma AIR 1919 Madras 540***, it was held that the deposition of witnesses examined at an enquiry held by Sub Registrar



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under Section 41(2) of the Registration Act regarding the genuineness of a Will, at which the opposing parties had opportunity of cross-examination, are admissible in evidence under Section 33 of the Evidence Act in a subsequent suit raising the same question between the same parties. The Hon'ble Division Bench made it clear that even though the Rules do not provide expressly either for the examination or cross-examination of the witnesses summoned on either side, they imply that they are to be both examined and cross-examined in the ordinary way, especially as the Rules contemplates that the parties may appear by counsel. The Hon'ble Division Bench further noted that it was the invariable practice and the practice of the Court is the law of the Court...

5... Registration of the Will under Section 41 of the Act will not by itself be determinative or conclusive of its genuineness. The Civil Court is also not bound by the decision of the registering authority. The petitioner will thus have full opportunity to prove his case before the registering authority in the enquiry under Section 41.”

6.In this view of the matter, the third respondent is directed to entertain the unregistered Will presented by the writ petitioner. Enquiry



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shall be conducted. Whether the Will can be registered or not has to be decided at the end of the enquiry. This exercise shall be completed by the third respondent within a period of twelve weeks from the date of receipt of copy of the document from the writ petitioner. I have not gone into the merits of the matter.

7.This writ petition is disposed of accordingly. No costs.

27.10.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias/SKM

To:

- 1.The Inspector General of Registration,
O/o.Inspector General of Registration,
Registration Department, No.100, Santhom High Road
Chennai - 600 028.
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- 3.The Sub Registrar, Nainar Kovil Sub Registrar Office,
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G.R.SWAMINATHAN, J.

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