

W.A.(MD)No.211 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.04.2025

CORAM:

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

W.A(MD)No.211 of 2025

S.Alagarsamy

... Petitioner

vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The District Revenue Officer,
Virudhunagar District,
Virudhunagar.

3.The Revenue Divisional Officer,
Aruppukkottai,
Virudhunagar District.

4.The Tahsildar,
Tahsildar Office,
Aruppukkottai Taluk,
Virudhunagar District.

5.Ramesh Kumar

6.Muthulakshmi

... Respondents



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Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P(MD)No.17409 of 2018, dated 22.11.2024.

For Appellant : Mr.R.Anandharaj
For R1 to R4 : Mr.S.S.Madhavan
Additional Government Pleader
For R5 & R6 : Mr.T.Balaji

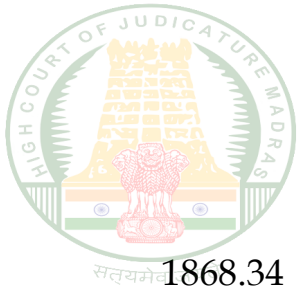
JUDGMENT

(Judgment of the Court was delivered by **S.SRIMATHY, J.**)

This writ appeal is directed against the order made in W.P(MD)No.17409 of 2018, dated 22.11.2024.

2. The writ petition was filed challenging the order passed by the 4th respondent, dated 17.07.2018, whereby, the request of the appellant/petitioner to cancel the death certificate of one Dhanasekaran, issued in favour of the 5th respondent, was rejected.

3. The petitioner/appellant had purchased the property comprised in S.No.11/2, New S.No.11/1C2, measuring to an extent of

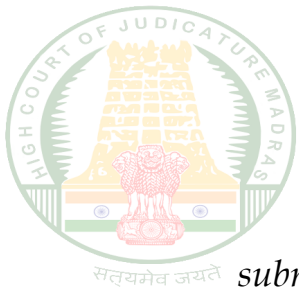


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1868.34 sq.ft under patta No.10089 situated at Plot No.1, Thendral Nagar, Velayuthapuram Village, Aruppukkottai, by a registered sale deed dated 06.08.2013. Thereafter, he constructed a house and living there. Originally, the subject property belonged to one Mallaiah Naicker, who sold out the same to third parties. The 5th respondent claiming to be the legal heir of the said Mallaiah Naicker, claimed title over the subject property. Therefore, the appellant filed a suit for declaration in respect of the subject property in O.S.No.249 of 2018 before the Sub Court, Aruppukkottai, and it is pending. However, the 5th respondent was issued with a death certificate of his deceased father, Dhanasekaran, to the effect that the said Dhanasekaran was born to one Mallaiah Naicker. According to the appellant/writ petitioner, the said Dhanasekaran was not born to Mallaiah Naicker. However, the Writ Court dismissed the writ petition rejecting the contentions of the appellant. The relevant passage of the order passed by the Writ Court is extracted hereunder:

"4. Now, the petitioner disputed the said fact that the said Dhanasekaran was not born to Mallaiah Naicker. On the application



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submitted by the petitioner, the fourth respondent, after detailed enquiry found that the said Mallaiah Naicker got married to one Muthulakshmi and gave birth to two children. One of the children is Dhanasekaran. However, the said Muthulakshmi and Mallaiah Naicker got separated and the said Muthulakshmi was living separately. That apart, Dhanasekaran's all records, such as Voter ID, Aadhar Card and other documents reveal that the said Dhanasekaran was born to Mallaiah Naicker.

5. Therefore, the fifth respondent was rightly issued the death certificate of his deceased father as Dhanasekaran, S/o. Mallaiah Naicker died on 22.02.2018. The fourth respondent rightly rejected the request made by the petitioner and hence, this Court finds no infirmity or illegality in the death certificate issued by the fourth respondent and this writ petition is liable to be dismissed. This writ petition is dismissed accordingly. No costs. Consequently, connected miscellaneous petitions are closed."

Aggrieved by the said order, this appeal is filed by the writ petitioner.

4. Assailing the impugned order, learned counsel for the appellant would state that though Mallaiah Naicker married to one Muthulakshmiammal, they got separated from the inception of the marriage and in the year 1974, Mallaiah Naicker filed a divorce petition



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in HMOP.No.22/1974 before the Sub Court, Sivagangai, contending that the said Muthulakshmiammal was in adulterous relationship with one Gurusamy Naicker, and through whom, she is having two sons namely, Dhanasekaran and Raman and one daughter. Even in the school certificates of the 5th respondent, his father's name has been mentioned as Gurusamy. However, without considering the same, death certificate has been issued in respect of the father of the 5th respondent as Mallaiah Naicker instead of Gurusamy. The Writ Court also failed to appreciate these factual aspects and the pendency of the suit in proper perspective and erroneously dismissed the writ petition. Thus, the learned counsel prayed for interference with the impugned order.

5. Heard both sides.

6. Though the appellant made the abovesaid contentions, we are not inclined to delve into the same, since it involves disputed questions of facts, which cannot be decided by the High Court and the civil court is competent to deal with the same. The appellant



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has already filed a civil suit for declaration in respect of the subject property in O.S.No.249 of 2018 before the Sub Court, Aruppukkottai and it is pending. Therefore, it is for the appellant to raise all those grounds in the pending suit.

7. Accordingly, the Writ Appeal is dismissed. The Sub Court, Aruppukkottai, is directed to dispose of the suit in O.S.No.249 of 2018 on its own merits and in accordance with law, without being influenced by any of our observations made in this writ appeal or the order passed in the writ petition and it shall consider the contentions of the parties independently based on the evidence to be adduced by them. No costs.

[J.N.B., J.] [S.S.Y., J.]
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Index : Yes / No
Neutral Citation : Yes / No
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