



WEB COPY

AS No. 1153 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-02-2026

CORAM

THE HON'BLE MR JUSTICE N. SATHISH KUMAR

AND

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

AS No. 1153 of 2025

and

CMP No.28598 of 2025

Lalitha
W/o. Vibakaran,

..Appellant

Vs

P. Vibakaran
S/o. Parameswaran,

..Respondent

This appeal has been filed under Section 96 of the Code of Civil Procedure, to set aside the Judgement and Decree dated 30.04.2025 made in OS No.281 of 2022 and thereby allow the appeal thus render justice.

For Appellant(s): Mr. R.Thiagarajan

For Respondent(s): Mr. M. Vignesh



JUDGMENT

(Judgment of the Court was delivered by N.Sathish Kumar J.)

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Challenging the judgment and decree of the Trial Court, decreeing the suit to declare the Will dated 22.08.2014, registered as document no.106 of 2014 on the file of the SRO, Virugambakkam as null and void and granting consequential permanent injunction, the present appeal has been filed.

2. The suit has been filed by the respondent herein, who is the husband of the appellant. The marriage between the parties was solemnised on 06.12.1996. During the subsistence of marriage, the respondent/husband has purchased a house property, and while the parties were in cordial relationship, the respondent/husband has executed a Will dated 22.08.2014 in favour of his wife. Subsequently, differences arose between the parties and the relationship became strained, leading to mutual allegations. Thereafter, the respondent/husband filed the present suit seeking to declare the said Will as null and void on the ground that it had been executed under coercion exercised by the petitioner/wife.



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3. According to the appellant/wife, the property in question was purchased out of her own contribution and therefore, she resisted the relief sought in the suit. However, the Trial Court granted a decree of declaration on the ground that the Will would have been executed under coercion.

4. Heard both sides and perused the materials available on records carefully.

5. The very filing of such a suit itself is nothing, but an abuse of process of law. If the executant of the Will intended to cancel the Will, he could have revoked the Will very well in the manner known to law. A Will, being revocable in nature, can always be cancelled by the testator during his lifetime. Instead of adopting such a course, the plaintiff has chosen to file the present suit making various allegations, including those arising out of matrimonial disputes.

6. On a careful perusal of the entire judgment and the issues framed, this Court is of the considered view that the entire exercise undertaken by the Trial Court is unsustainable. There are no proper pleadings with regard to the



coercion, undue influence or fraud. In the absence of specific pleadings and cogent evidence establishing undue influence or coercion, the finding recorded by the Trial Court that the Will would have been executed under coercion cannot be sustained.

7. Further, it has now been brought to the notice of this Court that the respondent/husband has cancelled the Will by executing a deed of revocation on 24.06.2025. Since the Will has been revoked by the executant himself, the declaration granted by the Trial Court has become unnecessary and infructuous.

8. Though it is stated that three connected proceedings are pending between the parties, those proceedings shall be decided independently on their own merits, based on the evidence adduced therein. Any observations or findings recorded in the present suit, particularly with regard to the matrimonial dispute between the parties, shall not bind the parties in the connected proceedings. In view of the above, this Court finds that the suit itself was not maintainable and the decree passed by the Trial Court cannot be sustained.



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9. In the result,

(i) the Appeal Suit is allowed.

(ii) The judgment and decree passed by the Trial Court in O.S.No.281 of 2022 are hereby set aside

(iii) the suit in O.S.No.281 of 2022 filed by the respondent/husband stands dismissed as not maintainable.

(iv) It is made clear that the observations contained in this judgment are confined only to the adjudication of the present appeal and shall not influence or affect the merits of any connected matrimonial or other proceedings pending between the parties, which shall be decided independently on their own merits and in accordance with law.

(v) Considering the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(N.S.K.,J.) (R.S.V.,J.)
03-02-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
MRP



To

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The IV Additional Principal Family Court,
Chennai.

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N.SATHISH KUMAR, J.

AND

R.SAKTHIVEL, J.

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