



W.P.(MD) No.25866 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.01.2026

CORAM

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.(MD)No.25866 of 2025
and W.M.P.(MD)No.20233 of 2025

M.Kandhimathinathan

... Petitioner

Vs

1.Sub Registrar,
Tuticorin Melur,
Tuticorin.

2.M.Sankar

3.Devika

(R2 & R3 are suo motu impleaded vide
Court order dated 19.09.2025 in
W.P.(MD)No.25866 of 2025)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records in pursuant to the impugned order dated 09.09.2025 refusal No.RFL/Melur Tuticorin No.68/2025 of the respondent and quash the same and to direct the respondent to register the settlement deed dated 04.09.2025 on its file without insisting the validity of the title and probating the Will within the period as fixed by this Court.



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For Petitioner : Mr.S.Balasubramanian

For Respondents : MrK.R.Badurus Zaman,
Govt. Advocate for R1

Mr.G.Sailendra babu for R2

Ms.A.S.Neyaz
for Mr.G.Anto Prince for R3

ORDER

This Writ Petition is filed challenging the impugned order dated 09.09.2025 passed by the 1st respondent and also seeking for a consequential direction directing the respondent to register the settlement deed dated 04.09.2025 on its file without insisting the validity of the title and probating the Will within the period as fixed by this Court.

2. The case of the petitioner is that the subject properties were acquired by the petitioner by virtue of an unregistered Will executed by his father dated 15.12.1994. He further submitted that the second respondent is the brother of the petitioner and the third respondent is the sister of the petitioner. Due to heavy debt in the



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petitioner's family and business, the petitioner undertakes to clear all the debt and therefore, the father of the petitioner has executed a Will dated 15.12.1994 in favour of the petitioner. The petitioner's father passed away in the year 1998. After the death of his father, the petitioner acquired the right over the property and he has been enjoying the property. Now the petitioner intends to settle the property in favour of his son and therefore, he executed a settlement deed dated 04.09.2025 in favour of his son. When the petitioner presented the said settlement deed dated 04.09.2025 for registration, the same was refused to be registered on the ground that alleged Will is not established as the final Will and has not been probated or adjudicated by any Court of law. Challenging the same, the petitioner has filed this Writ Petition.

3. The learned counsel appearing for the petitioner would submit that with regard to the subject property, a partition suit in O.S.No. 374 of 2024, was filed and the same is pending before the I Additional District Court, Tirunelveli. In the Written statement filed in the partition suit, the petitioner has categorically taken a stand that he is entitled for all the properties through the unregistered Will dated 15.12.1994. Under these circumstances, passing of the impugned order, denying the



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registration of the settlement deed, by the 1st respondent is not proper.

Hence, the impugned order is liable to be set aside.

4. The learned counsel appearing for the respondents 2 and 3 would submit that there are 19 items in the subject property. All the properties were enjoyed jointly by the petitioner and the respondents 2 and 3. They further submitted that with regard to the subject property, a partition suit has been filed and the same is pending. According to respondents 2 and 3, the unregistered Will is a fabricated Will and therefore, they have made strong objections for registration of the settlement deed. They further submitted that the petitioner's claim of the entire 19 properties would be decided in the partition suit filed before the I Additional District Court, Tirunelveli. Therefore, they pray for dismissal of this Writ Petition.

5. The learned counsel appearing for the first respondent submitted that since a suit is pending, they will not be in a position to register the settlement deed dated 04.09.2025.



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6. Considering the facts and circumstances of the case, this Court is of the view that the mere unregistration of a Will, cannot be a ground to refuse to register any document and therefore, the right provided under the said Will cannot be denied by the first respondent. The law is settled on this aspect. However, in the present case, objection was made by the respondents 2 and 3, who are the brother and sister of the petitioner. According to the petitioner, the Will was executed on 15.12.1994 and the petitioner's father passed away in the year 1998. After his demise, the petitioner and the respondents 2 and 3 are jointly enjoying the properties. The said property is also an undivided property. This Court is unable to understand when the petitioner was allowed the respondents 2 and 3 to enjoy the properties for the past 27 years and now the third respondent has filed a partition suit in O.S.No.374 of 2024 before the I Additional District Court, Tirunelveli, in the said suit, the petitioner has also filed a written statement by disclosing the Will. However, there is no probate of the Will. When such being the case, the petitioner's right can be decided only by the outcome of the said suit and until then, the petitioner cannot claim any right over the properties based on the Will. Hence, I do not find any error in passing the



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impugned order. Therefore, there is no merit in the Writ Petition and the same is liable to be dismissed.

7. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

30.01.2026

vsm
Index : Yes/No
NCC : Yes/No



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To

Sub Registrar,
Tuticorin Melur,
Tuticorin.



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KRISHNAN RAMASAMY, J.

vsm

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