

In the Court of District Munsif, Mudukulathur

Present : Ms.J.C.Aparna, B.A, L.L.B.,

District Munsif,

Mudukulathur.

Thursday the 09th day of April 2026

I.A.No.02/2025

in

O.S.No.56/2019

Shanmugavalli

..... Petitioner/Plaintiff

/VS/

1. Nachiyappan

2. Muniyasamy

..... Respondents/ 2,3 Defendants

This petition came on 30.08.2026 before this court for a final hearing in the presence of Thiru.S.Periyasamy, Learned Counsel for the Petitioner/Plaintiff and Thiru.S.Chandrasekaran Learned Counsel for the Respondents/ 2, 3 Defendants and upon hearing both sides enquiry and upon perusing the material records and having stood over till this day for consideration, this court delivered the following:

ORDER

This petition has been filed Under Order 13 R (3) of CPC to remove the document Ex.B3.

2. The contention of the Petitioner/Plaintiff in brief:-

The petitioner is the plaintiff in the main suit. It is stated that the petitioner/plaintiff's mother, Chellammal, never executed, Will dated 8.4.2000

in favour of the 1st defendant. The will is a document fraudulently produced by the three defendants on a white paper without a stamp paper. It has come to light that the 1st defendant has executed documents to the 2nd and 3rd defendants on the basis of the will and this suit is filed against the defendants seeking the fraudulent documents as null and void and for the relief of preliminary decree for partition against the 1st defendant to divide the suit property. The unregistered will dated 8.4.2000 is suspicious. The first page of the document has been written in a congested manner without any spaces, without any signature, and is a fraudulent document, as per the Registration Act. But the said document was marked by the court even after strong objection. Hence this petition is to be allowed or great hardships will be caused to the petitioner/plaintiff.

3. Brief averments of the Respondents/ 2,3 Defendants in brief:

The respondents/2,3 defendants deny the averments in the petition. The Will marked as Ex.B3 is a crucial document and is not required by law to be compulsorily registered. The validity of the same can be determined only in trial. The petition is filed with an intention to prolong the proceedings. Hence prays to dismiss the petition with costs.

4. Point for consideration:-

Whether the petition be allowed and the relief be granted as prayed for?

No documents filed on either side. Heard petitioner side and the petition

was reserved for orders by granting liberty for respondents side enquiry on or before 08.04.2026. After giving sufficient opportunities, respondents counsel did not enquire the matter. Available records perused.

5. Answer to the Point:-

5.1. This petition is filed to remove the Ex.B3 (Will - Original) which was marked on the side of the defendants. The petitioner/Plaintiff claims that his mother, Chellammal never executed the Ex.B3 and the same has been fraudulently created by the defendants jointly on a white paper. It was also contended that the will must be executed on stamp paper and must be registered. And it was contended that from the contents of the Ex.B3, the said document is highly suspicious and appears to be fraudulent.

5.2. The Will is not a document which is required by law to be compulsorily registered. The Will which was marked as Ex.B3, was executed on a white paper and was unregistered. The defendants entire case rests upon the said will as the 1st defendant has executed subsequent sale deeds in favour of 2, 3 defendants based on Ex.B3. The person who relies on the will is required to prove the same as per the provisions of section 68 of the Indian Evidence Act. It is open for the petitioner/plaintiff to raise the issues of suspicion as mentioned in the petition in the trial. If a Will is unregistered and also challenged as suspicious as forged, the burden of proof is heavily on the person relying on the Will (the propounder) to dispel all doubts. Hence the fact that the Ex.B3 is

unregistered and was executed on a plain paper alone cannot be a ground to remove the same. The counsel for the petitioner/plaintiff has relied upon the order of the Honourable Madras High Court in ***CRP.No.1575/2019 and CMP.No.10322/2019 in Arthi Vs Ayyakannu***, in which it was held that, a relinquishment deed which is compulsorily registrable is inadmissible if the same is not registered. Also, the counsel for the Petitioner/plaintiff has relied on the Order of the Honourable Madras High Court in ***(2010) 01MAD CK 0157 in CRP. (PD) No. 1723/2009***, where it was held that documents which are not required by law to be compulsorily registered are permitted to be retained in records and are relevant and admissible. The case squarely applies to the case on hands as in the present case, the document in dispute is a Will and is not mandated by law to be registered and is relevant and admissible and the question of rejection does not arise. Hence in the light of the above circumstances, the petition is dismissed and no order as to costs.

6. In the result, this petition is dismissed. No order as to costs.

Directly typed by me in my official laptop and formatted by Steno Typist, corrected and pronounced by me in open court on this 09th day of April 2026.

Both sides witnesses and documents : Nil

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