



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.11.2016

CORAM

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THE HONOURABLE **MR. JUSTICE V. BHARATHIDASAN**

W.P(MD) .No.18392 of 2016

and

W.M.P. (MD) .No.13228 of 2016

A.Varamtharumperumal

... Petitioner

Vs

1.The District Collector,
Madurai-20.

2.The District Revenue Officer,
Madurai-20.

3.Tahsildhar, Vadipatti Taluk,
Madurai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of certiorarified Mandamus calling for the records relating to the impugned order passed by the 3rd respondent by his proceedings Na.ka.No.2016/0103/24/009019, dated 24.08.2016, quash the same and direct the 3rd respondent to issue the patta in respect of Sy.No.282/5, Thiruvedagam Village, Vadipatti Taluk, Madurai District within a time frame fixed by this Court.

For petitioner : Mr.K.P.S.Palanivel Rajan

For Respondents : Mr.V.Muruganandam
Additional Govt. Pleader

ORDER

Challenging the order passed by the third respondent, rejecting the petitioner's application for transfer of patta on the ground that the petitioner did not file a certificate of probate along with the application, the present writ petition has been filed.

2. According to the petitioner, the property originally owned by his grandmother V.Alagammal. Later, the above said Alagammal executed a registered will in favour of the petitioner and his two brothers on 15.07.1992 on the file of the Sub Registrar, Solavandhan. Subsequently, she died on 26.06.1976, and



as per the Will, the petitioner is entitled to 'C' schedule property mentioned in the Will. In the above circumstances, the petitioner has filed an on-line application, seeking issuance of patta in his favour. The above application was rejected on the ground that the petitioner should get a probate from the competent Court.

3. Further, according to the petitioner, the property is situate in Madurai District and as per Law, no probate is required. Hence, the order passed by the third respondent rejecting his application is illegal and also against the principles of Natural Justice and it warrants interference of this Court.

4. Heard the learned counsel on either side and perused the material documents carefully.

5. As rightly pointed out by the learned counsel for the petitioner, the property is situate in Madurai District. Hence, no probate is required and the impugned order passed by the third respondent is not legally tenable. Hence, the impugned order, dated, 24.08.2016 is set aside and the third respondent/Tahsildar, Vadipatti Taluk is directed to consider the petitioner's application for transfer of patta, after issuing notice to the petitioner and other legatees in the Will and pass suitable orders on merits and in accordance with Law, within a period of 8 weeks from the date of receipt of a copy of this order. The third respondent is also directed to verify whether the Will has been subsequently cancelled or not, before passing the orders.

6. With the above observations and direction, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The District Collector, Madurai-20.
2. The District Revenue Officer, Madurai-20.
3. Tahsildhar, Vadipatti Taluk, Madurai District.

+1 cc to M/s.K.P.S.Palanivel Rajan, Advocate in SR.No. 68204

+1 cc to The Special Government Pleader in SR.No. 67931

VS