



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition(MD)No.21408 of 2016

Natesan

... Petitioner

Vs.

The Tahsildar,
Thanjavur Taluk,
Thanjavur.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent vide his proceedings in Na.Ka.No.6526/2016/Aa8, dated 22.09.2016 and to quash the same and consequently directing the respondent to issue joint patta in the name of the petitioner and along with his brother T.Chandramouleeswaran.

For Petitioner	: Mr.D.Ramesh Kumar
For Respondent	: Mr.N.S.Karthikeyan Additional Government Pleader

ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

2.By consent, the Writ Petition itself is taken up for final disposal.

3.The Writ Petition is filed challenging the order passed by the Tahsildar rejecting the petitioner's application to transfer patta.

4.According to the petitioner, her mother owned an extent of 4800 sq. ft house site in Survey No.143/2. On 24.04.2007, his mother died and as per the Will, he is in possession and enjoyment of the said property. Subsequently, he filed an application for transfer of patta in his name. But the respondent by the impugned order rejected his request on the ground that the petitioner claiming right over the unregistered Will. Unless he produced the registered Will, patta cannot be transferred. Hence, the petitioner has filed the present Writ Petition.



5.The respondent-Tahsildar rejected the petitioner's claim only on the ground that the Will produced by the petitioner is a unregistered Will and patta cannot be transferred based on the unregistered Will.

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6.It is settled law that Will need not be registered. Hence, the impugned order passed by the respondent only on the ground that the petitioner claiming right over the Will cannot be sustained.

7.Accordingly, the impugned order passed by the respondent is set aside and the Writ Petition is allowed and the matter is remitted back to the respondent and the respondent is directed to conduct fresh enquiry, after issuing notice to the petitioner as well as to the other rival claimants, if any and pass appropriate orders on merits and in accordance with law within a period of 12 weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

The Tahsildar, Thanjavur Taluk, Thanjavur.

+1 CC to Mr.D.RAMESH KUMAR, Advocate, SR No.67383

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No.67013

W.P (MD) No.21408 of 2016
08.11.2016

ps

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