

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.18690 of 2018

G.Kaliyamoorthi

.. Petitioner

-vs-

1. The District Revenue Officer
Villupuram
Villupuram District

2. The Revenue Divisional Officer
Thirukovilur
Villupuram District

3. The Thasildar
Thirukovilur Taluk
Villupuram District

4. G.Moorthi

5. Mrs.Unnamalai

6. Mrs.Muthuselvi

... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the first respondent in proceeding No.Pa.Mo.A3/22864/2015 (TRRP-05/2016) dated 03.05.2018 is illegal and quash the same.

For Petitioner:: Mr.G.Ranganathan

For Respondents:: Mr.V.Jayaprakash Narayanan
Special Government Pleader
for R1 to 3

ORDER

This writ petition has been directed against the impugned order dated 3.5.2018 passed by the District Revenue Officer, Villupuram, refusing to accept the request of the petitioner for transfer of patta in his name on the basis of an unregistered Will. The petitioner claims to be the absolute owner of the property having an extent of 22.50 ares in T.Panapakkam Village, Thirukovilur Taluk, Villupuram District. Since the petitioner's father late Govindan is said to have executed a Will in his favour on 26.7.2010 to an extent of 5 acres and 30 cents with two attesting witnesses authorised by a Notary Public. After the

demise of his father, it is his claim that the Will should be given effect to and after taking effect of the Will, he continued to be in possession and in enjoyment of the property without any disturbance. Moreover, when the patta stands in the name of his father in respect of the land covered under the Will dated 26.7.2010 and that the petitioner is entitled to continue in possession and enjoyment of the property on the basis of the Will, there was an interference with his possession. Hence, he applied to the third respondent-Tahsildar, Thirukovilur Taluk for transfer of his name in the patta along with the requisite documents including the Will. The third respondent, after scrutinizing all the documents, changed the revenue record and effected the transfer in the name of the petitioner and also issued a computer patta dated 13.12.2013 bearing proceedings No.RTR/4050/2013. But this has been questioned before the Revenue Divisional Officer, Thirukovilur by the contesting respondents 4 to 6. Without properly considering the Will executed in favour of the petitioner bequeathing the property in his favour, the second respondent reversed the decision taken by the Tahsildar, Thirukovilur. As against the said order, the petitioner preferred a revision before the District Revenue Officer, Villupuram. However, the first respondent rejected the revision and confirmed the order passed by the second respondent with a finding that one of the attestors Mr.Rayar, S/o Govindan had deposed that he had attested the Will in the absence of any Notary Public. When the first respondent has disbelieved the case of the petitioner on the basis of the deposition given by one of the attestors Mr.Rayar, S/o Govindan, this Court is not able to find any merit in this writ petition. Hence, this writ petition is dismissed. However, it is open to the petitioner to work out his remedy by approaching the civil Court, if so advised, to prove his possession based on the unregistered Will. Consequently, W.M.P.No.22043 of 2018 is also dismissed. No costs.

Sd/-

Assistant Registrar(co)

// True Copy//

Sub Assistant Registrar

ss

To

1. The District Revenue Officer
Villupuram
Villupuram District
2. The Revenue Divisional Officer
Thirukovilur
Villupuram District

3. The Thasildar
Thirukovilur Taluk
Villupuram District.

+1cc to Mr.G.Ranganathan, Advocate SR.No.49185
+1cc to Government Pleader SR.No.49951

VBA(CO)
sm:6.8.2018

W.P.No.18690 of 2018



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