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WP.No.12973 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **06.06.2024**

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.12973 of 2024

K.Pannerselvam

.. Petitioner

Versus

1. The Revenue Divisional officer,
O/o. The Revenue Divisional officer
Thenpathy, Sirkazhi Taluk, Mayiladuthurai District.

2. The Tahsildar,
Taluk Office, Sirkazhi Taluk, Mayiladuthurai District. .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records in Na.Ka. No.4338/ 2023/ A1 dated 07.02.2024 on the file of the 1st respondent herein and quash the same and direct the respondents to transfer the patta for an extent of 12 cents of punja land in Survey No.189/2A1, an extent of 85 cents of land in Survey No.189/2A3 and 11 cents of punja land in survey No.189/2D1 at Pazhayapalayam Village, Sirkazhi Taluk, Mayiladuthurai District to and in favour of the petitioner from the name of late Paramasiva Ambalam in patta No.1800.

For Petitioner : Mr.S.Senthil

For Respondents : Mr.A.Selvendran,



WP.No.12973 of 2024

Special Government Pleader

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ORDER

With the consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed to quash the impugned Order of the first respondent in Na.Ka. No.4338/ 2023/ A1 dated 07.02.2024 and direct the respondents to transfer the patta for an extent of 12 cents of punja land in Survey No.189/2A1, an extent of 85 cents of land in Survey No.189/2A3 and 11 cents of punja land in survey No.189/2D1 at Pazhayapalayam Village, Sirkazhi Taluk, Mayiladuthurai District to and in favour of the petitioner.

3. Heard learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

4. The case of the writ petitioner is that originally he applied for issuance of patta in the name of the petitioner based on a Will left by the testator. When he applied for patta, the authorities rejected the request of the



WP.No.12973 of 2024

petitioner on the ground that the Will is not a registered one. Challenging the said Order passed by the Tahsildar, an appeal has been filed before the Revenue Divisional Officer. As the Revenue Divisional Officer has kept the revision pending, the petitioner sought a direction before this Court in W.P.No.5821 of 2023 for early disposal of the appeal. Subsequent to the direction of this Court, the impugned Order came to be passed by the Revenue Divisional Officer. As against which, the present Writ Petition has been filed.

5. A perusal of the impugned Order clearly indicate that the Revenue Divisional Officer has not decided the appeal on its merits. He has just followed the Order of the Tahsildar and confirmed the Order holding that if the registered document is presented, patta will be issued. Since the impugned Order itself is against the fundamental principles of law, no counter is required.

6. At the outset, this Court is of the view that as far as the Will is concerned, the registration of a Will is optional. The property can be bequeathed by a Will and the Will can be either registered or unregistered one. Since, the Will being document which also convey the title of the property, after the death of the testator, the authority cannot insist that the Will has to be



WP.No.12973 of 2024

a registered one. Such a finding is nothing but perverse and non application of mind. In such view of the matter, the Order impugned has to be quashed.

7. Accordingly, this Writ Petition is allowed and the impugned Order dated 07.02.2024 passed by the first respondent stands quashed. The first respondent is directed to issue patta to the petitioner on the basis of the Will and documents produced by the petitioner. Such an exercise shall be done within a period of three months from the date of receipt of a copy of this Order. No costs.

06.06.2024

vrc

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No

To,

1. The Revenue Divisional officer,
O/o. The Revenue Divisional officer
Thenpathy, Sirkazhi Taluk, Mayiladuthurai District.
2. The Tahsildar,
Taluk Office, Sirkazhi Taluk, Mayiladuthurai District.



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WP.No.12973 of 2024

N. SATHISH KUMAR, J.

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W.P.No.12973 of 2024

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