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W.P.(MD)NO.7135 OF 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 22.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.7135 of 2020

G.Swaminathan

... Petitioner

Vs.

1. The District Collector,

Theni District.

2. The Tahsildar,

Aandipatti Taluk, Theni District.

3. Mariammal

4. Indirani

(R-3 & R-4 are impleaded vide order dated 02.01.2024

in W.M.P.(MD)No.11000 of 2020)

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for entire records pertaining to file No.2020/0103/25/044482 dated 09.06.2020 on the file of the 2nd respondent and quash the same besides directing the 2nd respondent to issue patta in the name of the petitioner for 'A' schedule property mentioned in Will dated 22.11.2019 within the time frame to be specified by this Court.



For Petitioner : Mr.S.Jagadeesh
For R-1 & R-2 : Mr.M.Lingadurai,
Special Government Pleader.
For R-3 & R-4 : Mr.M.Pounraj

* * *

ORDER

Heard both sides.

2. The writ petitioner approached the second respondent for effecting mutation of patta. His request was based on the Will said to have been executed by his brother Muthusamy who had title over the land in question. Respondents 3 and 4 are the wife and daughter of the said Muthusamy. They were impleaded before this Court. To a specific question posed to the learned counsel appearing for the private respondents, the response is that they challenge the genuineness of the Will.

3. It is true that a Will need not be registered. But then, it has to be proved in the manner laid down as per Section 68 of the Indian Evidence Act, 1872. This is all the more so, when the genuineness of the Will is challenged. It is for the petitioner to approach the jurisdictional Tahsildar, only after he succeeds in proving the Will before the



jurisdictional civil Court. The impugned order is not interfered with for the present. It will abide by the outcome of the civil suit that will have to be instituted by the writ petitioner.

4. I make it clear that I have not gone into the merits of the matter. I have not pronounced anything on the validity and genuineness of the Will. With this liberty to the petitioner to move the jurisdictional civil Court to prove the Will, this writ petition stands dismissed. No costs.

22.01.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

PMU



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G.R.SWAMINATHAN,J.

PMU

To:

1. The District Collector,
Theni District.
2. The Tahsildar,
Aandipatti Taluk, Theni District.

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