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W.P.No. 2283 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.01.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.2283 of 2025

1.S.Sambaji
2.S.Baskar

.... Petitioners

Vs

1.The District Collector of Cuddalore
Collectorate, Vridhachalam.

2.The Revenue Divisional Officer
Revenue Divisional Officer
Vridhachalam
Vridhachalam District.

3.The Revenue Tahsildar
Taluk Office
Vridhachalam
Cuddalore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus, to call for the



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records from the third respondent pertaining to the order dated 17.12.2024 made in Na.Ka.No.A4/3877/2024 of the third respondent and to quash the same and to direct the third respondent herein to make necessary entry in the revenue records of the Vridhachalam Village and issue patta in the name of the petitioners for the land together with the residential home constructed thereon measuring 975 and 229^{1/2} comprised in Natham Re-Survey No.280/1 in Ward E, Block 99, T.S.Nos.89 and 93 at Vridhachalam Town and Taluk, Cuddalore District by considering the petitioner's representation dated 21.08.2023.

For Petitioners : Mr.T.Dhanasekaran

For Respondents 1 to 3 : Mr.P.Sathish
Additional Government Pleader

ORDER

Aggrieved by the order passed by the third respondent dated 17.12.2024, the petitioner is before this Court seeking to quash the said order and issue patta in the name of the petitioners for the land as well as the residential home in the subject property.



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2. The facts are briefly set out herein below :

- a) The petitioners' mother Tmt.Silvanthai, W/o.A.Sama Rao was the absolute owner of the lands measuring 975 sq.ft. comprised in Sy.No.280/1 together with the residential building measuring 229^{1/2} comprised in Natham Re-Survey No.280/1 in Ward E, Block 99, T.S.Nos.89 and 93 at Vridhachalam Town, Cuddalore District. She had purchased the said property under the registered sale deeds dated 25.02.1974, 13.10.1980 and 14.06.1986.
- b) On 16.02.1993, the petitioner's mother had executed an unregistered Will in a sound and disposing state of mind in respect of the aforesaid property and bequeathed the properties in favour of the petitioners.
- c) The petitioner's mother Silvanthai died on 12.02.2006. On her death, besides the petitioners, she had left behind her surviving another son and daughter viz., Sindhu and Shivaji.



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The petitioners, thereafter, had taken possession of the property on the basis of the bequest in the Will and has been in continuous possession of the same.

- d) By virtue of the title having passed on to them and they being in possession of the property, the petitioners made an online application to the third respondent on 23.06.2023 to issue patta in their names.
- e) Subsequently, the field inspection appears to have been done by the Joint Inspector of the third respondent-office on 12.08.2023, and he had insisted upon the petitioners to submit all the necessary documents and the same was produced before him. However, no orders were passed and therefore, the petitioners had made several oral representations.
- f) While so, on 17.08.2023, the petitioners received a Short Message Service (SMS) stating that their application was rejected, however, no reason was stated for the rejection.



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- g) Therefore, the petitioners had approached the office of the third respondent and they were informed that the third respondent rejected the request of the petitioners on the ground that the Will executed by their mother was an unregistered one and that patta cannot be issued on the basis of an un-registered Will.
- h) The petitioners thereafter submitted a written representation to the Deputy Tahsildar, Vridhachalam on 21.08.2023 to conduct enquiry and issue patta. This request of the petitioner did not yield any result.
- i) Aggrieved which, the petitioner preferred a writ petition in W.P.No.32280 of 2023 seeking a direction to the Tahsildar, Vridhachalam, and this Court by order dated 29.11.2023, directed the Tahsildar to conduct enquiry and pass orders.
- j) Pursuant to the aforesaid order of this Court, the enquiry was conducted and the impugned order came to be passed by the third respondent, rejecting the claim of petitioners.



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Therefore, the petitioners are before this Court.

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3. Heard the learned counsel on either sides and perused the materials filed in support of this writ petition.

4. The learned counsel for the petitioners would refer to the statements of the petitioners in the impugned order who would depose that in pursuance of their application for transfer of patta, they had attended the enquiry held on 10.12.2024 and had also produced the documents required by the officials. The petitioners would contend that by virtue of the Will, they are entitled to the property in question possessed by their deceased mother Silavanthai, as of the other two legal heirs, her sister Sindhu is dead and the whereabouts of his elder brother Shivaji is not known.

5. A reading of the impugned order of the third respondent would show that the rejection of patta is based on the ground that an



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unregistered Will has been produced by the petitioners and on the report of Joint Inspector, Vridhachalam dated 15.11.2023 in this regard. The report of the Joint Inspector, Vridhachalam would state that the subject unregistered Will dated 16.06.1993 would read that the deceased Silavanthai had four children namely (1) Sindhu; (2) Shivaji; (3) Sambaji and (4) Baskar, of whom marriage was conducted to Sindhu and her another son Shivaji had left the parental home. However, there is no discussion as to the other legal heirs' entitlement to the property in question. Therefore, the rejection appears to be only on the ground of unregistered Will being put forward by the petitioners.

6. A registration of a Will is an optional and even the unregistered Will has the same effect as that of the registered one. Therefore, the basis on which the third respondent had rejected the claim of the petitioner cannot be countenanced. That apart a testamentary succession is one whereunder the testator decides to bequeath the property on persons of their choice overlooking the heirs who would inherit the property, had the



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person died intestate.

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7. The writ petition is accordingly allowed and a mandamus is issued to the third respondent to consider the representation of the petitioners and issue patta, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

27.01.2025

Index: Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
ds

To:

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P.T.ASHA, J.,

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