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W.A.(MD)NO.24 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.02.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.A.(MD)No.24 of 2022 and
C.M.P.(MD)No.548 of 2022

1. Mangaleshwari
2. Kalaiselvi

... Appellants / Respondents 3 & 4

Vs.

1. The District Collector,
Madurai District,
Collectorate,
Madurai – 625 002.

2. The Tahsildar,
Vadipatti Taluk,
Taluk Office,
Vadipatti,
Madurai District.

... Respondents 1 & 2 /
Respondents 1 & 2

3. Kamala

... Respondent No.3 / Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order passed in W.P.(MD)No.18478 of 2021 dated 16.12.2021 and allow the writ appeal.



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For Appellant : Mr.R.Rajaraman
For R-1 & R-2 : Mr.K.Balasubramani,
Special Government Pleader.
For R-3 : No appearance.

* * *

J U D G M E N T**(Order of the Court was delivered by G.R.SWAMINATHAN, J.)**

Heard the learned counsel appearing for the appellant and the learned Special Government Pleader appearing for the respondents 1 and 2.

2. The third respondent who is the writ petitioner has been served and she has not chosen to enter appearance.

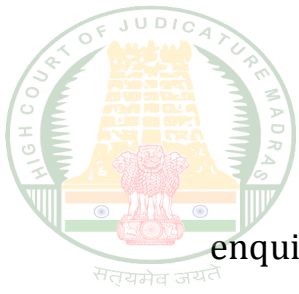
3. The case on hand pertains to mutation of revenue record in respect of the petition-mentioned properties. It is not in dispute that the petition-mentioned properties stood in the name of one Ramachandran. Ramachandran passed away. The appellants herein are none other than the daughter and daughter-in-law (class-I legal heirs of the deceased Ramachandran). They submitted an online application for effecting mutation of patta. Thereafter, the



jurisdictional Tahsildar effected transfer of patta in favour of the appellants. This was questioned by the third respondent herein by filing W.P.(MD)No.18478 of 2021. The third respondent is the sister of the deceased Ramachandran. She claims that Ramachandran had executed an unregistered Will dated 21.12.2020 and that in the said Will, the petition-mentioned properties have been discussed.

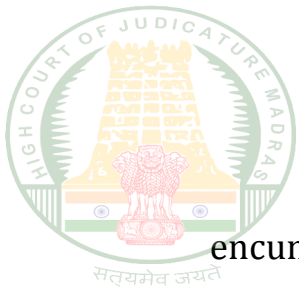
4. According to the writ petitioner / R3 herein, mutation of patta could have been taken place in respect of the unregistered Will dated 21.12.2020 executed by Ramachandran. The learned single Judge allowed the writ petition vide order dated 16.12.2021 and set aside the mutation made in favour of the appellants herein. The learned single Judge noted that when Kamala, writ petitioner herein had independently submitted an online application for effecting mutation of patta that was very much available in the file, the Tahsildar, Vadipatti could not have ignored the said application and proceeded to act on the application submitted by the appellants.

5. In that view of the matter, the mutation was set aside and the matter was remitted to the file of the Tahsildar, Vadipatti for fresh



enquiry. *Prima facie*, the approach adopted by the learned single Judge cannot be faulted.

6. We cannot lose sight of the fact that the appellants are none other than the class-I legal heirs of the deceased Ramachandran and that the writ petitioner is challenging only with an unregistered Will. As rightly pointed out by the learned counsel for the appellants, the revenue authority could not have adjudicated on the genuineness of the Will. Our attention is drawn to the decision of the Hon'ble Division Bench reported in **2011 5 CTC 94 (Vishwas Footwear Company Ltd., Rep. by Director V.Ravi V. The District Collector, Kancheepuram)**. The Hon'ble Division Bench had held that the revenue authority cannot adjudicate disputed questions in a patta enquiry. Here, the question is whether an unregistered Will executed by Ramachandran is genuine or not. This issue cannot be decided by the Tahsildar, Vadipatti. It is also seen that Kamala had subsequently filed O.S.No.111 of 2022 on the file of the District Munsif, Vadipatti. Till Kamala establishes her claim in the civil suit, it is not necessary to defer recognition of the appellants' claim. The appellants through their counsel give an undertaking that they will not alienate or



encumber the petition-mentioned properties till the disposal of the suit filed by Kamala. To balance the rights of both the parties, we request the learned District Munsif, Vadipatti to dispose of O.S.No. 111 of 2022 within a period of twelve months from the date of receipt of a copy of this order.

7. Since the rights of the third respondent have been adequately protected, the impugned order passed by the learned single Judge is set aside. The mutation of patta made in favour of the appellants herein is restored. This writ appeal is allowed accordingly. No costs.

(G.R.SWAMINATHAN, J.) & (M.JOTHIRAMAN, J.)
17th February 2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU

Note : Registry to mark a copy of this order to the learned District Munsif, Vadipatti.

To:

1. The District Collector, Madurai District, Collectorate, Madurai – 625 002.
2. The Tahsildar, Vadipatti Taluk, Taluk Office, Vadipatti, Madurai District.



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