



W.P.(MD)No.13951 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.01.2025

CORAM

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD)No.13951 of 2023

and

W.M.P(MD)No.11776 of 2023

Aathiyappan

... Petitioner

Vs.

1.The Tahsildar,
O/o.The Tahsildar,
Aruppukottai Taluk,
Virudhunagar District.

2.The Deputy Tahsildar,
O/o. Deputy Tahsildar,
Aruppukottai Taluk,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order, dated 09.03.2023 passed by the second respondent in pursuant to the petitioner's online application, dated 07.03.2023 vide Application No.2023/0103/26/187543 and quash the same and consequently, direct the respondents to transfer patta in his name as request by petitioner's application, dated 07.03.2023 vide online application No.2023/0103/26/187543.

For Petitioner : Mr.I.Suthakaran



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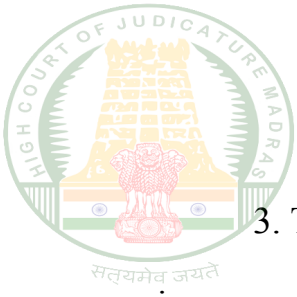
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For Respondents : Mr.R.Ragavendran
Government Advocate

ORDER

The writ petition has been filed challenging the order, dated 09.03.2023, passed by the second respondent in pursuance to the petitioner's online application, dated 07.03.2023 and consequently, directing the respondents to transfer patta in his name by considering the petitioner's application, dated 07.03.2023.

2. The petitioner purchased the vacant site in S.Nos.143/9 and 143/10 to an extent of 20.1/4 cents, vide sale deed, dated 29.06.1997. The petitioner executed a sale deed in favour of his wife, namely, Prema on 04.03.2009. Based on the settlement deed, the patta was transferred in the name of the petitioner's wife in Patta No.2892. The petitioner's wife thereafter executed a Will in favour of the petitioner on 09.09.2018, in respect of the subject property. The petitioner's wife died on 15.05.2019 and therefore, based on the Will, the petitioner made a request to mutate the patta, in his name. The second respondent rejected the petitioner's application stating that the Will was not registered. Aggrieved by the same, the petitioner filed the above writ petition for the aforesaid relief.

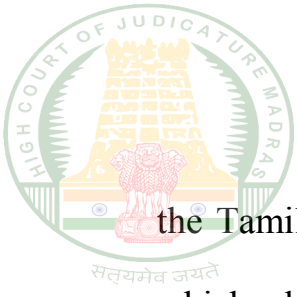


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3. The learned counsel for the petitioner submitted that the rejection order is an online rejection and it is very cryptic. The learned counsel for the petitioner submitted that the petitioner's application was rejected only on the ground that the Will was un-registered. The learned counsel for the petitioner submitted that the impugned order was bad in law for not only being cryptic but also because the procedure contemplated under Section 10 read with Rule 4 of the Tamil Nadu Patta Passbook Act was not followed while passing the order. The learned counsel for the petitioner therefore submitted that the impugned order deserved to be set aside and the writ petition allowed.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. As rightly contended by the learned counsel for the petitioner, the impugned order is cryptic and the only reason assigned for rejecting the application that the Will was un-registered cannot be countenanced. It is to be noted that the petitioner has applied for transfer of patta on the basis of the will and it is well settled that Will is not a compulsorily registrable document. Therefore, even the cryptic reason cited by the respondents for rejecting the application is untenable. Moreover, as rightly contended by the learned counsel for the petitioner, the impugned order is in gross violation of the provisions of



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the Tamil Nadu Patta Passbook Act and rules, namely Section 10 and Rule 4, which clearly stipulate that before passing any order on an application for modification of entries in the Patta Pass Book, the Thasildar shall give reasonable opportunity to the parties concerned to make representation either orally or in writing and the Thasildar shall conduct summary enquiry.

6. As the impugned order is passed in violation of the procedure contemplated under the provisions of the Tamil Nadu Patta Passbook Act and Rules, the impugned order cannot be sustained and the same is set aside. Accordingly, the writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

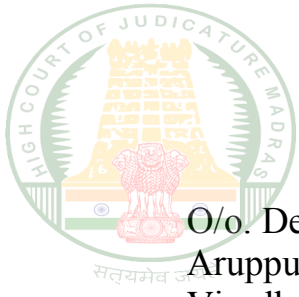
22.01.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
SN

To:

1.The Tahsildar,
O/o.The Tahsildar,
Aruppukottai Taluk,
Virudhunagar District.

2.The Deputy Tahsildar,



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O/o. Deputy Tahsildar,
Aruppukottai Taluk,
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N.MALA, J.

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