

W.P.(MD)No.1767 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on: 23.06.2026

Pronounced on: 01.07.2026

CORAM

THE HONOURABLE MRS JUSTICE S.SRIMATHY

WP.(MD) No. 1767 of 2018

and

WMP(MD) No.6139 and 1888 of 2018

N.Selvaraj

...Petitioner

Vs

1.The District Revenue Officer,
Pudukkottai District,
Pudukkottai.

2.The Thasildar,
Avudaiyarkovil Taluk,
Pudukkottai District.

3.Selvam

4.R.Vasanth

5.R.Suganth

6.Ananthi

...Respondent(s)

For Petitioner(s) : Mr.G.Mohan Kumar

For Respondent(s): Mr.I.Pinaygash,

Counsel for State of TamilNadu – For R1 and R2

No Appearance – For R3,4 and 6



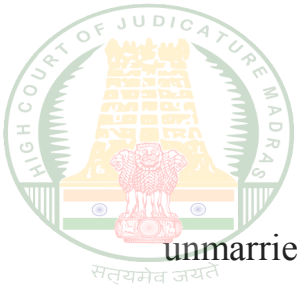
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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to quash the impugned order passed by the 1st respondent herein dated 29.12.2017 made in Ne.Mu.No.16774/2014/D3.

ORDER

The present writ petition has been filed for the issuance Writ of Certiorari to quash the impugned order dated 29.12.2017 passed by the 1st respondent in Ne.Mu. No.16774/2014/D3.

2.1. The brief facts of the case are that S.Nos.54/1, 54/2, 54/3, 55/2, 56/1 and 56/2 and other properties in Kathiramangalam village, Avudaiyarkovil Taluk, Pudukkottai District, originally belonged to the family of one Ramasamy Ambalam. The family members of the said Ramasamy Ambalam entered into a registered partition deed on 17.08.1957 under document No.1463/1957. The above said survey numbers were allotted to the share of Ramasamy Ambalam in the said partition deed. On 17.06.1962 the said Ramasamy Ambalam had sold the property in registered sale deed Document No.1245/1962 to one Muthusamy Ambalam totally an extent 17.19 Acres. The said Muthusamy Ambalam remained



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unmarried but disappeared from the year 1969 and remained untraceable for more than eight years. Hence the property devolved upon his brother, Nadarajan.

The said Nadarajan died intestate, leaving behind three sons, namely, the petitioner N.Selvaraj, the 3rd respondent N.Selvam and N.Rajkumar, who is the father of respondents 4 to 6 herein. The said three sons of Nadarajan orally partitioned the entire extent of 17.19 acres among themselves in the year 1977 and separate pattas were issued in the name of each son corresponding to the extent allotted in the oral partition. The 3rd respondent herein neither objected to the said partition effected in the year 1977 nor challenged the mutation of the revenue records in favour of each of the sons based on the oral partition. The said state of affairs continued unchallenged for more than forty years.

2.2. The 3rd respondent all of a sudden had approached the 1st respondent in August 2015 claiming that the said Muthusamy Ambalam had executed a registered Will dated 09.06.1964, registered as Document No. 2050 of 1964 on the file of the Sub-Registrar, Saidapet, Chennai, bequeathing the entire extent of the aforesaid properties in his favour and after the demise of Muthusamy Ambalam on 11.12.1965, the Will came into effect. On the basis of the said claim, the 3rd respondent requested the 1st respondent to delete the names of his



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brothers from patta and issue separate patta exclusively in his favour. The petitioner had filed a detailed counter objecting to the claim of the 3rd respondent, wherein it is pointed out that Document No. 2050 of 1964, which was produced by the 3rd respondent as the alleged Will of the deceased Muthusamy Ambalam, is in fact a sale deed executed between entirely different parties, as revealed by the information furnished by the Sub-Registrar, Saidapet, Chennai. Also pointed out that the document relied upon by the 3rd respondent could not have been executed in the year 1964, since it bears the seal and description "Tamil Nadu", but during the relevant period the State was known as "Madras Presidency" and the name "Tamil Nadu" came to be adopted only subsequently. Further stated that the 3rd respondent had filed CrI.M.P.No. 4708 of 2014 on the file of Judicial Magistrate and based on the orders passed therein, obtained a death certificate dated 21.08.2014 recording the date of death of Muthusamy Ambalam as 11.12.1965. The said registration of death was effected nearly fifty years after the alleged date of death. The said orders were obtained by the 3rd respondent without impleading petitioner or the other legal heirs of Nadarajan.

2.3. While that being so, the 1st respondent without considering the petitioner's allegation that the Will dated 09.06.1964 is a forged document and



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that the death certificate had been registered behind the back of the legal heirs of Nadarajan, allowed the appeal and directed the deletion of the petitioner's name from Patta No. 83. Further stated that a part of the enquiry was conducted on 20.06.2017 and the petitioner was informed that the next date of hearing would be intimated by post after obtaining the report from the 2nd respondent herein. However, no such information was received from the 1st respondent with regard to the next date of hearing. Based upon the report of the 2nd respondent herein, the 1st respondent proceeded to pass the present impugned order without proper notice. And the order was passed without furnishing a copy of the said report. Hence, the present writ petition.

3. Heard Mr.G.Mohan Kumar, the learned counsel appearing for the petitioner and Mr.I.Pinaygash, the Learned counsel appearing for respondents 1 and 2 and perused the records. The respondents 3, 4 and 6 received notice but has not appeared before this Court either in person or through counsel. The notice to the 5th respondent returned as left the place of address.

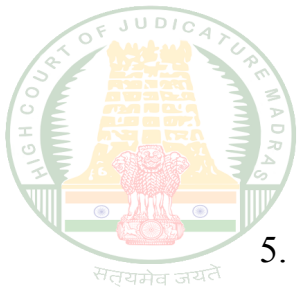
4. The primary contention of the petitioner is that a part of the enquiry was conducted on 20.06.2017 and informed that the next date of hearing would be



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intimated by post after obtaining the report from the 2nd respondent, but without

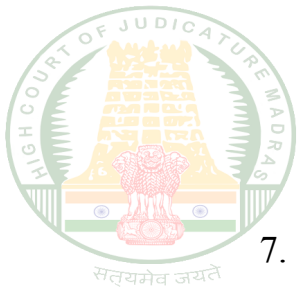
granting next date of hearing, based on the report of the 2nd respondent the 1st respondent had passed the present impugned order, hence the impugned order was passed violating the principles of natural justice. It is seen that the said contention of the petitioner was not specifically refuted by the respondents, in the counter it is stated that sufficient opportunity was granted to the petitioner but the petitioner had not produced any records or evidence. This Court is of the considered opinion that when the petitioner specifically states that the respondents had adjourned the case and next date of hearing would be granted after receipt of report from the 2nd respondent, then the respondent ought to grant an opportunity to the petitioner by granting next date of hearing. Further a specific stand was taken by the petitioner wherein it is stated that the report of the 2nd respondent was not furnished to the petitioner. Then this would amount to violation of principles of natural justice. Therefore, this Court is of the considered opinion that the order passed without granting of next date of hearing and without furnishing the 2nd respondent's report is violative of principles of natural justice and the impugned order is liable to be quashed.



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5. The next contention of the petitioner is that the alleged Will dated 09.06.1964 in Document No.2050 of 1964 is not a Will but a sale deed between third parties as per the information provided by the Sub Registrar Office, Saidapet. It is seen that the petitioner had submitted the said contention before the respondent, but the respondent had not directed the 3rd respondent to produce the evidence to dispel the said contention. If the claim of the petitioner is correct, then the basis of the claim putforth by the 3rd respondent is not available at all, then the 3rd respondent is not entitled to patta. But through the impugned order the 1st respondent had granted patta. Therefore, this Court is of the considered opinion that the issuance of patta is total non-application of mind.

6. The next contention of the petitioner is that alleged Will has been executed in a stamp paper, wherein seal has been affixed as “Tamil Nadu” but the name Tamil Nadu was in usage from 1967 onwards. This Court is of the considered opinion that it is a serious question raised by the petitioner and the same ought to be proved by the 3rd respondent. The alleged document ought to be verified by the competent authorities, which can be proved only in competent Civil Court.



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7. The contention of the official respondent is that the petitioner had not produced any records or evidence to substantiate his claim of oral partition among the petitioner and respondents 3 to 6 and merely transfer of patta in the name of the petitioner will not vest title over the property. This Court is of the considered opinion that if the patta is transferred to individuals i.e. the three sons of the Nadarajan as earlier as 1977 and in the patta it is shown equal extent of the property, then it is evident that the three persons have divided the property orally. The circumstances can also be verified by the subsequent facts as well. The 3rd respondent had not objected for such patta granted to the other two persons as early as 1977 and has not produced the alleged Will as early as 1977. Further the death certificate of Muthusamy Ambalam was obtained only in the year 2014 in CrI.M.P.No.4708 of 2014, after the lapse of 47 years. In such circumstances, it can be safely concluded that the claim of the 3rd respondent is not believable.

8. Further the alleged Will has been executed in Chennai, then as per law any Will executed in Chennai ought to be probated as per the law prevailing then. The 3rd respondent has not probated the same, hence on this ground also the claim of the petitioner is cannot be sustained.



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9. Even if the claim of the 3rd respondent regarding the alleged Will is taken as acceptable for the sake of argument, then also the 3rd respondent is not entitled to patta, when the other two rival claimants are disputing the alleged Will. Then the legal course available to the 3rd respondent is to prove the Will in the court of law. It is settled law that the person claiming right through the Will, has to prove the Will as per law when there is rival claimant. Consequently the 3rd respondent is not entitled to patta until the Will is proved as per law. Therefore, the impugned order cannot sustain the scrutiny of law.

10. For the reasons started supra, the impugned order granting patta to the 3rd respondent is illegal and deserves to be quashed and accordingly the impugned order is quashed. The Writ Petition is allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

01.07.2026

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S.SRIMATHY, J.

Tmg

**ORDER MADE IN
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DATED : 01.07.2026