

Civil Procedure Code, 1908 (V of 1908) Order 39, Rules 1, 2 – Will – Will in question is a registered document – Under what circumstances the Will in question was registered manually and not digitally, cannot be delved into at this stage – The petitioner has failed to bring to the notice of this Court any relevant rules or directions of the authorities concerned which would make the registration of a Will through computerized digital mode mandatory.

Civil Procedure Code, 1908 (V of 1908) Order 39, Rules 1, 2 – Plea that thumb-impressions of the testator on the alleged Will were clearly smudged and indecipherable, no independent witness had attested the Will, was not in digital mode and that all these circumstances when seen in totality, raises a big question about the authenticity and genuineness of the Will in question .....

– Prima facie the petitioner, as per the record, is shown to have been represented by a counsel before the revenue authority concerned – Also filed his power of attorney bearing the signatures of the petitioner – Whether the said counsel had been authorized or not, or whether the signatures on the power of attorney were forged or genuine, would be a matter of appreciation during trial – Since petitioner is shown to have participated in the partition proceedings, therefore, the onus to prove to the contrary would also rest on him – Can only be decided by evidence – At this preliminary stage, the courts below cannot be faulted with for leaning in favour of the validity of the partition proceedings as they were carried out by the revenue authorities in discharge of their official duties and hence presumption of correctness would be attached to them.

**PLRonline 458587**

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[\*\*\(2022-4\)208 PLR 747\*\*](#)