

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Appeal No.974 of 2015

1.Amudhavalli
2.Manonmani

... Appellants

vs.

1.P.Rangasamy
2.P.Velusamy
3.P.Maruthachalam
4.The Corporation of Coimbatore,
represented by its Commissioner,
Coimbatore.
5.The Executive Engineer (Planning)
Corporation of Coimbatore,
Coimbatore.
6.H.Jayakumar
7.K.Pandian
8.D.Saravanan

9.Velu Selvaraj

... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 11.02.2013 made in W.P.No.26953 of 2012 passed by the learned Single Judge of this Court.

Petition presented under article 226 of Constitution of India, praying to issue a Writ of Certiorari calling for the records of the 2nd respondent in proceedings dated 12/9/2012 and quash the same.

For Appellants : Mrs.Chitra Sampath, SC
for Mr.T.S.Baskaran

For R1 to R3 : Mr.K.Doraisamy, SC
for Mr.P.Saravana Sowmiyan

For R4 : Mr.S.Saravanan

For R5 : Mr.K.Natarajan

For R6 : Mr.S.Senthilnathan

For R7 : Mr.D.Bharathy

For R8 : Mr.K.C.Duraisamy, SC for
Mr.S.Sivapandi

JUDGMENT

(Order of the Court was made by HULUVADI G. RAMESH,J.)

Being aggrieved by the order passed by the learned Single Judge of this Court, the appellants, who were the respondents 3 and 4 in the writ petition, have filed this writ appeal.

2. The writ petition arose out of the order passed by the Executive Engineer (Planning), Corporation of Coimbatore, dated 12.09.2012, wherein and whereunder, it has been concluded that the unilateral cancellation of the gift deed cannot be accepted. The learned Single Judge has disposed of the said writ petition, by the order impugned herein, the relevant portion of which are extracted hereunder:

"2. At this stage of the hearing of the writ petition, the learned counsel appearing on behalf of the petitioners had submitted that it would suffice if the petitioners are permitted to agitate the matter before the appropriate civil court, for the cancellation of the settlement deed, dated 21.09.2007 and if the civil court considers the issues arising for its consideration, without being influenced by the observations made by the second respondent, in his order, dated 12.9.2012.

3. The learned counsel appearing on behalf of the first and the second respondents has no objection for this Court passing such an order.

4. In view of the above, it is made clear that it would be open to the petitioners to agitate the matter relating to the cancellation of the settlement deed, dated 21.9.2007, before the appropriate civil forum, in the manner known to law. It is also made clear that it is for the civil court concerned to examine the issues arising for its consideration, without being influenced by the observations made by the second respondent in his impugned order, dated 12.9.2012. The writ petition is ordered accordingly..."

3. Learned senior counsel appearing for the appellants submits that the writ petitioners had unilaterally cancelled the gift deed dated 23.12.1997 executed in favour of Panchayat by a cancellation deed dated 21.09.2007, after a lapse of 10 years without any right whatsoever and they are now trying to sustain it under the guise of the impugned order. Learned senior counsel further submits that the observation of the learned Single Judge that the validity of the cancellation deed dated 21.09.2007 has to be decided by a civil court, is contrary to the Full Bench decision of this Court. Therefore, learned senior counsel seeks clarification of the impugned order to that extent.

4. We are of the view that the contentions raised by the learned senior counsel appearing for the appellants cannot be considered by this Court in this writ appeal. However, the appellants are at liberty to raise all the contentions and get clarification with respect to the order impugned herein before the learned Single Judge, by way of "being mentioned".

5. Accordingly, the writ appeal is disposed of. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Commissioner,
Corporation of Coimbatore,
Coimbatore.

2.The Executive Engineer (Planning)
Corporation of Coimbatore,
Coimbatore.

copy to

The Section Officer

Writ Section High Court Madras

+2 ccs to Mr.T.S.Baskaran advocate sr 46980

+1 cc to Mr.K.Natarajan Advocate sr 47157

+1 cc to Mr.S.Saravanan Advocate sr 47230

+1 cc to Mr.P.Saravana Sowmiyan Advocate sr 46793

W.A.No.974 of 2015

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