



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2017

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.18452 of 2017

T.Thillaisivakami

... Petitioner

vs.

The Sub Registrar,
Aruppukottai Sub Registrar Office,
Thirusuli Road,
Aruppukottai,
Virudhunagar District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus to call for entire records connected with the impugned order passed by the respondent dated 15.09.2017 and quash the same and directing the respondent to register the rectification deeds submitted by the petitioner regarding gift settlement deeds registered in Document Nos.3658/2012, 3659/2012, 3660/2012 and 3661/2012 dated 11.07.2012 at the respondents office as per representation dated 24.06.2017 and consider the claim of the petitioner

For Petitioner : Mr.K.K.Kannan

For Respondent : Mr.M.Alagathevan
Special Government Pleader**ORDER**

This writ petition has been filed seeking to quash the impugned order passed by the respondent dated 15.09.2017 and consequently direct the respondent to register the rectification deeds submitted by the petitioner regarding gift settlement deeds registered in Document Nos.3658/2012, 3659/2012, 3660/2012 and 3661/2012 dated 11.07.2012 as per representation dated 24.06.2017.

2.Heard the learned counsel appearing for the petitioner and the learned counsel for the respondent.

3.The case of the petitioner is that she has executed four gift settlement deeds in favour of her sons with regard to the property in S.No.103/81. While registering the gift settlement deeds, survey number has been wrongly mentioned as 104/68. Hence



the petitioner has given a representation dated 24.06.2017 to the respondent. Since the same has not been considered, the petitioner has filed WP(MD)No.12360 of 2017 on the file of this Court and this Court, by the order dated 11.07.2017, directed the respondent to consider the representation of the petitioner. The respondent rejected the claim of the petitioner by way of passing the impugned order. Challenging the same, the petitioner is before this Court with the above prayer.

4.The learned counsel appearing for the petitioner submitted that the respondent without considering the claim of the petitioner and also without giving an opportunity of hearing, has erroneously passed the impugned order. Therefore, the impugned order passed violates the principles of natural justice and the same shall be termed as illegal and is liable to be set aside.

5.Per contra, the learned Government Advocate appearing for the respondent submitted that the respondent, after considering the entire materials available on record, has rightly passed the impugned order and therefore, the petitioner is not justified in seeking for setting aside the impugned order on the reason that she was not heard before passing the impugned order.

6.I have considered the rival submissions and perused the materials available on record.

7.It is not the case of the respondent that the impugned order was passed after providing an opportunity of hearing to the petitioner. A perusal of the records would show that before passing the impugned order, no notice was issued to the petitioner to put forth her case and the same violates the principles of natural justice. Hence the impugned order passed by the respondent cannot be sustained and the same is liable to be set aside and the matter is liable to be remitted to the respondent for fresh consideration.

7.Accordingly, this writ petition is allowed. The impugned order passed by the respondent dated 15.09.2017 is set aside and the matter is remitted back to the respondent. The respondent is directed to consider the claim of the petitioner afresh and pass appropriate orders on merits and in accordance with law after giving due opportunity of hearing to the petitioner. Such exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/



To

The Sub Registrar,
Aruppukottai Sub Registrar Office,
Thirusuli Road,
Aruppukottai,
Virudhunagar District.

+1cc to Spl.Government Pleader Sr.No.86552
+1cc to Mr.K.K.Kannan, Advocate Sr.No.86069

MJ

VB/MR/KKR/SAR4/21.11.2017/3P/4C

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