

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2018

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.13576 of 2013

and

M.P.No.2 of 2013

Champatlal B.Jain

... Petitioner

Vs.

The Member Secretary,
Chennai Metropolitan Development Authority,
Gandhi Irwin Road,
Chennai - 600 008.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent herein in his proceedings in Letter No.TDR/12795/2011, dated 12.4.2013 and quash the same as invalid, illegal and abuse of power and direct the respondent to return the property taken under gift deed dated 25.6.2009, registered as document No.1359 of 2009 on the file of the Sub-Registrar of Assurances, Periamet, Chennai -3 as taken without public purpose and compensation.

For Petitioner : Mr.T.V.Lakshmanan
For Respondent : Mr.P.S.Ganesh
Standing counsel

ORDER

Heard Mr.T.V.Lakshmanan, learned counsel for the petitioner and Mr.P.S.Ganesh, learned Standing counsel for the respondent and perused the materials available on record.

2. This writ petition has been filed for issuance of a writ of certiorarified mandamus, to quash the order of the respondent dated 12.4.2013 and gift deed dated 25.6.2009, registered as document No.1359 of 2009.

3. It seems that a planning permission was granted in favour of the petitioner in the year 2008 on the condition that he shall gift a land measuring an extent of 59.76 sq.mt. Accordingly, he executed the impugned gift deed dated 25.06.2009 and thereafter completed construction in the year 2012.

4. The petitioner seeks to quash the gift deed on the ground that the gift deed was executed in contravention of the Tamil Nadu Town and Country Planning Act and the decision of the Hon'ble Supreme Court reported in (1995) 1 SCC 47 [PT.Chet Ram Vashist (Dead) By Lrs. Vs.Municipal Corporation of Delhi].

5. According to the respondent, if the petitioner is aggrieved by the conditions in the planning permission, he should have preferred an appeal and after completing the construction as per the plan, he cannot now seek to quash the gift deed.

6. In the judgment relied on by the learned counsel for the petitioner, the Resolution was passed for transferring the OSR land in favour of the Municipality free of cost. The Hon'ble Supreme Court has held that the Corporation has a right to maintain the same, but he cannot claim any right or title thereof and hence the judgment has no application to the facts on hand.

7. As rightly contended by the learned Standing Counsel for the respondent, the gift deed came to be executed to fulfill one of the conditions in the planning permission and the petitioner cannot challenge the order after completing construction. Hence, I do not find any merit in the Writ Petition. Accordingly, the Writ Petition fails and the same is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

ms
To

The Member Secretary,
Chennai Metropolitan Development Authority,
Gandhi Irwin Road,
Chennai - 600 008.

+1 cc to Mr.P.S.Ganesh Advocate SR.NO. 50108
+1 cc to Mr.T.V.LAKSHMANAN Advocate SR.NO. 43320

W.P.No.13576 of 2013
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VD(CO)
ASK(31/08/2018)