

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2019

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.499 of 2019

T.Ambikapathi

... Petitioner

Vs.

1.The Secretary to the Government,
Municipal Administration Department,
Fort St.George,
Chennai 600 005.

2.The Director,
Directorate of Town Panchayat,
Kuralagam, Chennai 600 108.

3.The District Collector,
Kancheepuram District,
Kancheepuram.

4.The Commissioner,
Maraimalai Nagar Town Panchayat,
Maraimalai Nagar 603 209.

... Respondents

PRAYER : Petition filed under Article 226 of The Constitution of India praying to issue a writ of Certiorarified Mandamus, to call for the records of the fourth respondent bearing Na.Ka.No.2191/2018/A1 dated 09.11.2018 and to quash the same and direct the fourth respondent to cancel the gift deed dated 23.07.1997, registered as document No.2004 of 1997 in respect of the land admeasuring an extent of 54 ½ acres comprised in Survey No. 375/2B2, Ninakarai Village, Chengalpet Taluk, Kancheepuram District.

For Petitioner : Mr.L.Dhamodaran

For Respondents: Mr.V.Shanmuga Sundar,
Spl.Govt.Pleader for RR1 to 3
Mr.P.Srinivas for R4

O R D E R

The petitioner has filed the present writ petition to call for the records of the fourth respondent bearing

Na.Ka.No.2191/2018/A1 dated 09.11.2018 and to quash the same and direct the fourth respondent to cancel the gift deed dated 23.06.1997, registered in Document No.2004 of 1997 in respect of the land comprised in Survey No. 375/2B2, Ninakarai Village, Chengalpet Taluk, Kancheepuram District.

2. According to the petitioner, the petitioner is the owner of the agricultural land comprised in S.No.375/2B2, Ninakarai Village, Chengalpet Taluk. The petitioner executed a power of attorney in Document No.42 of 1997 dated 31.01.1997, in favour of one Shagul Hameed, for developing the portion of the agricultural land to an extent of 1.68 acres in the above said property. Subsequently, the said registered power of attorney was cancelled on 27.06.1997, by a registered document No.285 of 1997. The dispute between the petitioner and the power agent before the Civil Court was disposed of in favour of the petitioner and the said decree has become final.

3. The power agent, also executed a gift deed dated 23.06.1997, in favour of the fourth respondent for the formation of road and park. Therefore, the petitioner made a representation to the fourth respondent to cancel the gift deed executed by the power agent on 23.06.1997. The fourth respondent has passed the impugned order dated 09.11.2018, by rejecting the request of the petitioner and informed that the petitioner has to obtain an order from the Government. Therefore, unless the Government has passed an order for revocation of the gift deed, the respondent Municipality cannot revoke the said gift deed executed by the power agent. Challenging the said order, the petitioner is before this Court.

4. The learned Special Government Pleader appearing for the respondent Municipality would submit that the order itself speaks that unless any order has been passed by the Government for revocation of the gift deed, the respondent Municipality cannot revoke the said gift deed executed by the power agent.

5. In the said circumstances, the learned counsel for the petitioner has requested his Court to give liberty to the petitioner to make a representation to the Government through the respondent Municipality and the said representation may be considered by the Government for passing an order of revocation of the gift deed.

6. The learned Special Government Pleader appearing for the respondents 1 to 3 would submit that if the petitioner makes any representation, the same should be only through the respondent Municipality along with the remark made by the Municipality to the Government.

7. By considering the said submissions, as requested by the learned counsel for the petitioner, the petitioner shall make a representation to the Government through the respondent Municipality, within a period of two weeks from the date of receipt of a copy of this order. If any such representation is received, the Municipality is directed to forward the same to the Government along with the remarks, within a period of four weeks thereafter. The Government shall consider the representation and pass appropriate orders as expeditiously as possible.

8. With the above observations, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gsk

To

1.The Secretary to the Government,
Municipal Administration Department,
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Chennai 600 005.

2.The Director,
Directorate of Town Panchayat,
Kuralagam, Chennai 600 108.

3.The District Collector,
Kancheepuram District,
Kancheepuram.

4.The Commissioner,
Maraimalai Nagar Town Panchayat,
Maraimalai Nagar 603 209.

+1cc to Mr.P.Srivas, Advocate sr.no.11152
+1cc to Mr.L.Dhamodaran, Advocate sr.no.11709
+1cc to Government Pleader sr.no.11837

W.P.No.499 of 2019

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