



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 5536 of 2019

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A.K.Naina Mohammed

... Petitioner

Vs

1.The District Registrar,
Ramanathapuram District.

2.The Sub-Registrar,
Keelakarai,
Ramanathapuram District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to register the petitioner cancellation of gift deed executed by the petitioner dated 07.10.2009 vide document No.2755/2009 Volume No.1 on his file by considering the representation dated 01.10.2018 within stipulated time as fixed by this Court.

For Petitioner : Mr.S.Prabhu

For Respondents : Mr.M.Murugan
Government Advocate

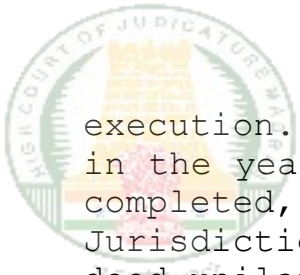
ORDER

Heard the learned counsel on either side.

2.The petitioner had executed a gift deed on 07.10.2009 in favour of his second wife and son. The same was also registered as document No.2755/2009 on the file of the second respondent. The petitioner now wants to cancel the said gift deed. But the second respondent is declining to receive the cancellation deed. Therefore, this writ petition has been filed.

3.The learned counsel appearing for the petitioner states that the case on hand pertains to gift under Muslim law which is known as Hibba. There are some essential ingredients. In this case, the donees have not accepted the gift. Possession has also not been handed over to the donees. Therefore, according to the petitioner's counsel, the cancellation deed can be registered.

4.I am unable to agree with this contention. Once the document has been registered, the executant will have to move only the Court for cancelling the same. He cannot present a cancellation deed unilaterally for cancelling the earlier



execution. In this case, the gift deed was executed as early as in the year 2009. If according to the petitioner, the gift was not completed, he must necessarily file a declaration suit before the Jurisdictional Civil Court. He cannot present a cancellation deed unilaterally for cancelling the earlier gift deed.

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5. The second respondent is justified in not accepting the document presented by the petitioner for registration. I sustain the contention raised by the learned counsel appearing for the respondents. The writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The District Registrar,
Ramanathapuram District.

2. The Sub-Registrar,
Keelakarai,
Ramanathapuram District.

+1 CC to M/s.S.PRABHU, Advocate (SR-53059[F] dated 11/03/2019)

+1 CC to M/s.SPL GP (SR-53060[F] dated 11/03/2019)

RMI

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