



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2020

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD)No.2132 of 2020

WEB COPY

Soundararajan

... Petitioner

vs.

1.The District Registrar,
Trichy District, Trichy.

2.The Sub Registrar,
Thuvarankurichi, Trichy District.

3.Nathiya

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Declaration, to declare the gift deed Document No.1781 of 2019 on the file of the second respondent in the name of the third respondent as null and void and to direct the respondent Nos.1 and 2 not to permit any further encumbrances relating the property in S.No.313/1B which is situated at Pranpatti South Village, Marungapuri Taluk, Trichy District on the basis of the petitioner's representation, dated 06.11.2019.

For Petitioner

:Mr.A.Mu.Sharavanan

For R1 and R2

: Mr.V.Anand

Government Advocate

O R D E R

This Writ Petition is filed for issuing a Writ of Declaration to declare the gift deed stated to have been executed by the petitioner's brother in favour of his wife and registered before the second respondent as null and void and to direct the respondents 1 and 2 not to permit any further encumbrances relating to the property in S.No.313/1B situated at Pranpatti South Village, Marungapuri Taluk, Trichy District.

2.By consent of both parties, the Writ Petition is taken up for final disposal at the stage of admission itself.

3.The case of the petitioner in short is that the petitioner's father and mother had properties in S.Nos.313/1, 334/2 and 333/1 in Pranpatti South Village, Marungapuri Taluk, Trichy District. It is admitted that a settlement deed was executed by the petitioner's father and mother in favour of the petitioner's



brother, by name, Muthu. It is stated that a civil suit for partition is also pending in O.S.No.363 of 2004 on the file of the District Munsif Court, Manaparai. The petitioner's mother and father appears to have cancelled the settlement deed stated to have been executed by them in favour of petitioner's brother. It in the said circumstances, the petitioner challenges the registration of a subsequent gift deed alleged to have been executed by the petitioner's brother in favour of his wife. The consequential prayer is also not to permit any encumbrance by the petitioner's brother or by sister in law.

4.The declaratory relief sought by the petitioner is not maintainable before this Court in exercise of its jurisdiction under Article 226 of Constitution of India. The petitioner has to approach the Civil Court for such relief. Going by the facts admitted by the petitioner himself, the petitioner's parents have executed a gift deed and settlement deed and subsequently, cancelled the same. The legality of cancellation of gift deed is doubtful. It is also settled that unilateral cancellation of a registered document cannot be permitted.

5.Be that as it may, the petitioner is now seeking for declaration of a subsequent document stated to have been executed by the petitioner's brother in favour of his wife as null and void. The petitioner is not party to the document and that he can ignore the document, even before the Civil Court. When a Civil Suit is pending, the status of the transaction, whether it is invalid or void, can also be gone into by the Civil Court. It is also open to the petitioner to file an independent suit, as permissible in law to invalidate the settlement in favour of his brother. If the transaction takes place during the pendency of the suit, the rights of parties is protected under Section 52 of Transfer of Properties Act.

6.In such circumstances, this Court do not find any justifiable reason to entertain this Writ Petition. Hence, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

cmr



To

1.The District Registrar,
Trichy District, Trichy.

2.The Sub Registrar,
Thuvarankurichi, Trichy District.

+1 CC to SPL.GP (SR-4765[F] dated 05/02/2020)

+1 CC to Mr.SARAVANAN, Advocate (SR-4937[F] dated 06/02/2020)

W.P. (MD) No.2132 of 2020
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