



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN

W.P (MD) No.6868 of 2018

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Gunasekaran

... Petitioner

Vs.

1.The Inspector General of Registration,
80, Santhom Highways Road,
Chennai.

2.The District Registrar,
Theni District,
Theni.

3.The Sub Registrar,
Sub Registrar Office,
Cumbum,
Theni District.

4.Deivendran,
Police Constable,
B block,
Uthamapalayam Police Quarters,
Theni District.

... Respondents

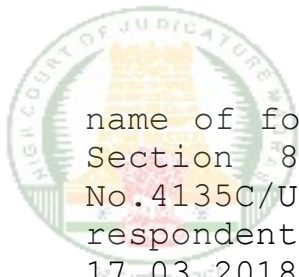
PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the second respondent to conduct appropriate enquiry within stipulated time and cancel the gift settlement deed dated 03.10.2017 vide document No.3950/2017 executed stands in the name of fourth respondent by conducting appropriate enquiry under Section 83 of the Registration Act as per circular letter No.4135C/U1/2C 2017, dated 20.10.2017 issued by the first respondent by considering the petitioner's representation dated 17.03.2018.

For Petitioner : Mr.A.Saravanan

For Respondents : Mr.K.Sathya Singh
Additional Government Pleader
For R1 to R3

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus directing the second respondent to conduct appropriate enquiry within stipulated time and cancel the gift settlement deed dated 03.10.2017 vide document No.3950/2017 executed stands in the



name of fourth respondent by conducting appropriate enquiry under Section 83 of the Registration Act as per circular letter No.4135C/U1/2C 2017, dated 20.10.2017 issued by the first respondent by considering the petitioner's representation dated 17.03.2018.

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2. Heard the learned Counsel appearing for the petitioner and Mr.K.Sathya Singh, learned Additional Government Pleader, who took notice for the respondents 1 to 3.

3. The learned Counsel appearing for the petitioner submitted that the house property situated at Manthaiamman Kovil Street, Ward No.1, Melakoodalur Village, Uthamapalayam Taluk, Theni District, belongs to his father one Pinna Thevar @ Mokkaiah Thevar and his father paying kist for the past 50 years under House Tax No.1187 for the above said property. The said property is an ancestral property and then the said property was in the name of the petitioner's father. After the demise of the petitioner's father, the fourth respondent, who is the brother of the writ petitioner, without obtaining any legal heir certificate, illegally transferred the above said House Tax No.1187 in the name of their mother, namely, Amaravathy, aged about 90 years. On that basis, Patta No.15 was issued in the name of the petitioner's mother. Thereafter, the fourth respondent transferred the said property in favour of him from his mother by way of gift settlement deed dated 03.10.2017, vide document No.3950/2017 and registered the same. According to the petitioner, the partition was not done properly between the legal heirs of his father, namely, Pinna Thevar @ Mokkaiah Thevar. Therefore, the said gift deed is not a valid one since it is a joint family property. Thereafter, the petitioner made a complaint to the second and third respondents to cancel the gift settlement deed dated 03.10.2017 by considering his representation dated 17.03.2018. Since the said representation was not considered by the official respondents, the petitioner has come before this Court with this Writ Petition.

4. Considering the facts and circumstances of the case and without expressing any opinion on the merits of the matter, this Court is inclined to pass the following order:

"The second respondent is directed to consider the representation of the petitioner dated 17.03.2018 and pass orders in accordance with law, particularly, by taking note of Section 68(2) of the Registration Act, 1908, and thereafter, the concerned authority may invoke Section 83 of the said Act. The said exercise shall be done within a period of four months from the date of receipt of a copy of this order."



5. With the above direction, this Writ Petition is disposed of.
No costs.

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Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

PJL

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Inspector General of Registration,
80, Santhom Highways Road,
Chennai.

2. The District Registrar,
Theni District,
Theni.

3. The Sub Registrar,
Sub Registrar Office,
Cumbum,
Theni District.

+1 CC to SGP (SR-20447[F] dated 16/10/2020)

W.P (MD) No. 6868 of 2018
15.10.2020

KM(CO)
KM (06.11.2020) 3P 5C