



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.06.2020
C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

WEB COPY

W.P. (MD) No.2636 of 2015
and
M.P. (MD) No.2 of 2015

M.Jainulabudeen

... Petitioner

Vs.

1.The Joint Sub Registrar II,
Dindigul, Dindigul District.

2.A.Asiabeevi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorari, to call for the records relating to the registration of cancellation of gift deed registered by the Second Respondent vide document No.7052/14 dated 22.12.2014 and quash the same as illegal.

For Petitioner : Mr.Mahaboob Athiff
for M/s Ajmal Associates
For Respondent 1 : Mr.J.Gunaseelan Muthiah
Additional Government Pleader

ORDER

Having due regard to the nature of dispute sought to be agitated by the Petitioner in the Writ Petition, it is contended by Mr.J.Gunaseelan Muthiah, Learned Additional Government Pleader, who takes notice for the First Respondent, that the Division Bench of this Court in **P.Rukumani -vs- Amudhavalli** [(2020) 1 CTC 241] has examined the question as to whether a Writ Petition under Article 226 of the Constitution challenging the validity of registration of document made under the Registration Act, 1908, could be entertained, and has held as follows :-

"9.Considering the submissions made at the bar, we are of the clear opinion that in a case relating to execution of a conveyance deed or a sale deed or cancellation thereof, if there is any dispute about the rights of the parties involved therein, the only appropriate remedy for the parties is to approach the Civil Court by way of civil suit. The act of registration of a document is a consequential act which will be subject to decree of Civil Court in case such a dispute arises.

10. We are of the clear opinion that such a relief could not have been sought or granted in Writ Jurisdiction under



Article 226 of the Constitution of India. The civil rights of the parties based on relevant evidence can only be determined by a Civil Court by a competent Civil Court and not by the writ Court under Article 226 of the Constitution of India. Such private rights of the parties cannot be made a subject matter of writ jurisdiction. The writ petitions under Article 226 of the Constitution of India lie only against the State or instrumentality of the State as defined under Article 12 of the Constitution of India. Therefore, such determination of private civil rights of the parties cannot be made subject matter of writ petition."

In view of the aforesaid submission made, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to the petitioner to institute suit invoking Section 31 of the Specific Relief Act, 1963, for necessary relief before the jurisdictional Civil Court. He has further informed that he would send a confirmatory e-mail to the Registrar (Judicial) of this Court to that effect, which shall be placed on record.

2. Accordingly, the Writ Petition is dismissed as withdrawn granting such liberty. It is also made clear that the period from the date of presentation of this Writ Petition (i.e., 25.02.2015) till the date on which certified copy of this order is made ready by the Registry, shall be excluded for computing the period of limitation for the filing of the proposed suit. It is needless to add here that no view has been expressed by this Court on the correctness or entitlement on the merits of the claim made by the Petitioner in that regard. Consequently connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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

The Joint Sub Registrar II,
Dindigul, Dindigul District.

+1 CC to M/s.Special Govt. Pleader(SR-13084[F] dated 04/06/2020