IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.8534 of 2021
and
WMP.No.9096 of 2021

R.Balakrishnan,
S/o. Late Thiru Rajireddy ... Petitioner

Vs.

1. The District Collector,
The District Collector Office,
Ranipet Post and District.

2. The District Revenue Officer,
The District Collector Office,
Ranipet Post and District.

3. The Tahsildar,
Arakkonam Taluk Office,
Arakkonam Post,
Ranipet Dt. .. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records in Na.Ka.T.3/1066/2021 on the file of District Revenue Officer, Ranipet dated 16.02.2021 and quash the same and direct the respondent Nos. 1 and 2 to consider the representation dated 17.03.2021 to issue patta for 3.33 acres of lands in Survey No.230/1 and 231 at No.135, Thandalam Village, Arakkonam Taluk, Ranipet District to the petitioner's land on par with para 5(c) of Circular No.52666/C1/2018 on file of the Inspector General of Registration, Chennai-28 dated 29.11.2018.

For Petitioner : Mr.D.Veerasekaran

For Respondents: Mr.K.M.D.Muhilan,
Government Advocate for R1 to R3

ORDER
(The case has been heard through video conference)

Challenging the order passed by the 2nd respondent/District Revenue Officer refusing to correct the UDR patta, the present Writ Petition has been filed.

2. The brief facts leading to file the writ petition reads as follows:-

The petitioner and his brother are the owners of the property in Survey Nos.230/1 and 231 to an extent of 3.47 acres in Thandalam village. Earlier, in the year 1984, one Sabapathy wanted to start a Industrial Training Institute, in the said village and he approached the petitioner and his brother to donate the lands for the purpose of establishing the institution. Considering his request, on 17.01.1985, the petitioner and his brother gifted 3.33 acres of land to the said Sabapathy only for the purpose of establishing an Industrial Training Institution. Thereafter, said Sabapathhy was not in a position to start the institute and all of a sudden, the promoter Sabapathy died. Even a Trust was also not formed for the purpose of starting the Industrial Training Institute and the project was also abandoned. Since the institute was not established, the petitioner and his brother cancelled the Gift Deed, by a Deed of Cancellation dated 15.03.1992 and the same was also duly registered and nobody challenged the same so far. In the meantime, during the UDR Scheme, in the revenue register, patta has been transferred in the name of the "Sabapathy Tholir Kalvi Nilayam" based on the gift deed, dated 17.01.1985 executed by the petitioner.

3. In the said circumstances, since no Industrial Training Institute has been started and a Gift Deed executed by the petitioner was also cancelled, the petitioner approached the District Revenue Officer to change the records and issue patta in the name of the petitioner and his brother. But, the said request has been rejected by the District Revenue Officer on the ground that the petitioner and his brother have no right to cancel the Gift Deed and that apart, the cancellation is unilateral and that the cancellation of the gift deed is not valid one.

4. Mr. Veerasekar, the learned counsel for the petitioner would submit that the Gift Deed executed in favour of Sabapathy only for the purpose of establishing an Industrial Training Institute. But, admittedly, the Industrial Training Institute was not established and the said Sabapathy also died and the land is kept vacant. Since the purpose for which the Gift Deed executed was not fruitified, the petitioner cancelled the gift deed, which was also duly registered as early as on

15.03.1992 and no one has challenged the cancellation so far. In the meantime, the UDR patta was granted in the name of Industrial Training Institution. In the said circumstances, the petitioner approached the District Revenue Officer to change the revenue records. But, without considering all those circumstances, the District Revenue Officer rejected the claim of the petitioner.

5. The learned Government Advocate appearing for the respondents would submit that admittedly, gift deed was executed in favour of Sabapathy for the purpose of establishing the Industrial Training Institute. Since the Gift deed is unconditional gift deed, it cannot be unilaterally cancelled by the petitioner and based on the same, he cannot ask for change in the register.

6. Earlier, this Court directed the respondent to inspect the place, and file a report, and the Revenue Authorities has inspected the place and today reported that as on date, no Industrial Training Institute has been established and the land is kept vacant.

7. I have considered the rival submissions and perused the materials available on records carefully.

8. Admittedly, the petitioner and his brother are the owner of the land and the land has been gifted in favour of one Sabapathy, by means of a registered gift deed, dated 17.01.1985, and it could be seen that the petitioner and his brother executed a gift deed in favour of the said Sabapathy for the purpose of establishing the Industrial Training Institute. It is also an admitted fact that after execution of gift deed, the said Sabapathy died and the Industrial Training Institute was not established, and the land is kept vacant. As the land was not used for the purpose for which it was gifted, the petitioner cancelled the gift deed on 15.03.1992, it was also duly registered. That was also not challenged by anyone. It is also now admitted that as on today, Industrial Training Institute was not established and the land is vacant and it is contended that the petitioner alone is in possession of the land and he is doing cultivation right from the year 1985. In the said circumstances, the purpose, for which, the gift deed executed was not fruitified and the gift deed was also cancelled, subsequently and as on today, that was not challenged by anybody. In the said circumstances, the respondent cannot refuse to grant patta in favour of the petitioner only on the ground that the unilateral cancellation is not valid and the gift deed is an unconditional one. The revenue records, as on today, stand in the name of a non-existing institution. In those circumstances, this court is of the view that the order passed

by the 2nd respondent is not valid in the eye of law and it is liable to be set aside.

9. Accordingly, the writ petition is allowed and the impugned order, dated 16.02.2021, passed by the 2nd respondent is set aside. The second respondent is directed to carry out the mutation in the revenue records and issue patta in the name of the petitioner, within a period of eight(8) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The District Collector,
   The District Collector Office,
   Ranipet Post and District.

2. The District Revenue Officer,
   The District Collector Office,
   Ranipet Post and District.

3. The Tahsildar,
   Arakkonam Taluk Office,
   Arakkonam Post, Ranipet Dt.

+1cc to Mr.D.Veerasekaran, Advocate, S.R.No.32641

W.P.No.8534 of 2021

PCH(CO)
CB(05/08/2021)