

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.05.2021

C O R A M

THE HON'BLE Mr.JUSTICE R.SURESH KUMAR

Writ Petition No.11258 of 2021

G. Dhivya

..Petitioner

Vs

1. The Inspector General
Department of Registration
No.101 Santhome High Road
Chennai 600 028.

2. The Deputy Inspector General
Collectorate
Salem
Salem District.

3. The District Registrar
Collectorate
Salem
Salem District.

4.Sharmila

..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondents 1 to 3 to consider and pass orders on the representation sent by the petitioner dated 08.02.2021 made to cancel the registration of the gift deed in the name of the fourth respondent for the lands in S.No.524/1,2A.2B and 524/2B situated at Kitchipalayam, Salem District.

For Petitioner ... Mr.D.Arun

For Respondents ... Mr.T.M.Pappaiah
Special Government Pleader
for R1 to R3.

O R D E R

The prayer sought herein is for a writ of mandamus, to direct the respondents 1 to 3 to consider and pass orders on the representation sent by the petitioner, dated 08.02.2021, made to cancel the registration of the gift deed in the name of the fourth respondent for the lands in S.Nos.524/1, 2A.2B and 524/2B situated at Kitchipalayam, Salem District.

2. The petitioner seeks to cancel the gift deed executed and registered in respect of property at Survey NO.S.Nos.524/1, 2A.2B and 524/2B [S.No.241/3] situated at

Kitchipalayam, Salem District, which has been registered before the Sub-Registrar, Salem East, has given a representation on 08.02.2021 and since the said representation has not been considered, he has filed the present writ petition with the aforesaid prayer.

3. Heard Mr.D.Arun, learned counsel appearing for the petitioner, who would submit that, according to the instruction received from the petitioner, petitioner's mother when she was alive and not in conscious seems to have been influenced by her daughter, who is the sister of the petitioner to execute a gift deed in favour of her. Therefore, the said gift deed executed in favour of the petitioner's sister and registered at the concerned Registration Office is a fraudulent transaction, hence, in order to cancel the same, she has given a representation and the same was not considered by the respondent, hence, the present writ petition has been filed. Therefore, he seeks indulgence of this Court to give direction to the respondent to that effect.

4. Heard Mr.T.M.Pappaiah, learned Special Government Pleader appearing for the respondents 1 to 3, who would submit that, once the deed in question has already been registered, the same cannot be cancelled, as such power is not vested with the Registering Authority and if the petitioner is having any grievance over the very execution of the gift deed itself between the mother and sister of the petitioners, she should approach the competent Civil Court to seek her remedy. Therefore, the learned Special Government Pleader would submit that this writ petition can be dismissed accordingly.

5. I have considered the said submissions made by both sides. As has been rightly pointed out by the learned Special Government Pleader appearing for the official respondents, the proper remedy for the petitioner lies not before this Court or before the Registering Authority, but only before the competent Civil Court. Therefore, the petitioner can very well approach the Civil Court and seeks remedy by filing appropriate suit against the fourth respondent or any other party against whom she makes an allegation about an alleged transaction of the property by way of gift deed.

6. In that view of the matter, this Court is inclined to dismiss this writ petition with a liberty to the petitioner to approach the competent Civil Court for seeking appropriate relief in the manner known to law. No costs.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

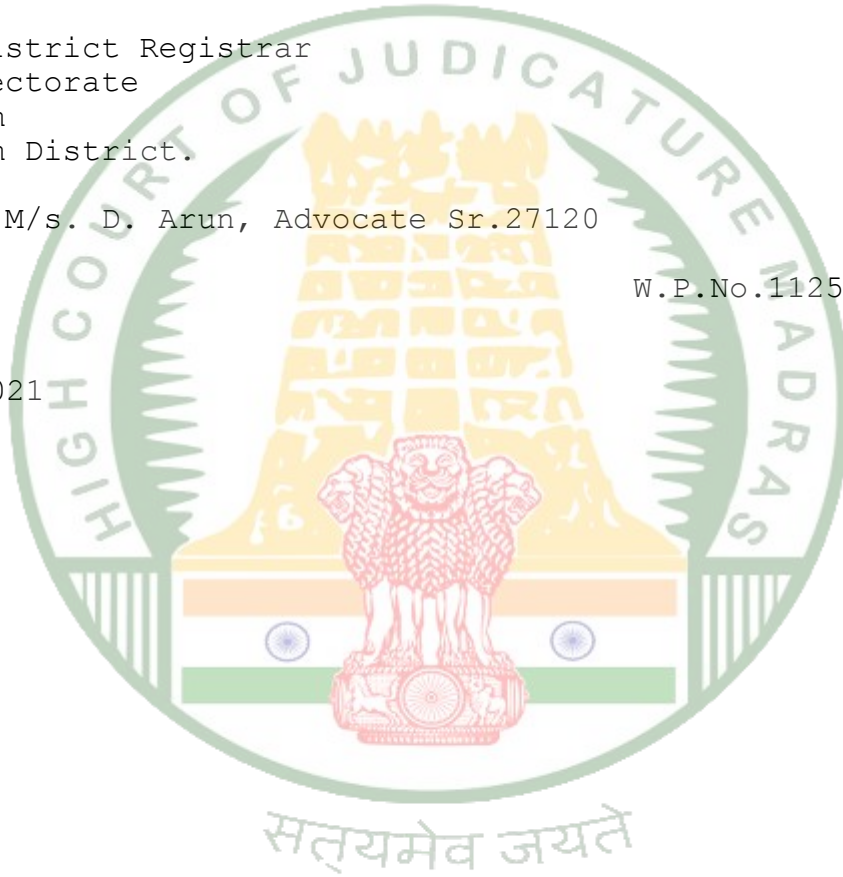
To

1. The Inspector General
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No.101 Santhome High Road
Chennai 600 028.
2. The Deputy Inspector General
Collectorate
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Salem District.
3. The District Registrar
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+ 1 cc to M/s. D. Arun, Advocate Sr.27120

W.P.No.11258 of 2021

CP(CO)
EU 12.5.2021



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