



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 22.03.2021

DELIVERED ON : 17.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.[MD]No.6338 of 2021

Rajagopal

... Petitioner

Vs.

1.The District Collector,
Karur District,
Karur.

2.The Revenue Divisional Officer,
Kulithalai,
Karur District.

3.The Sub-Registrar,
Tharakampatti Sub-Registrar Office,
Tharakampatti,
Karur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to cancel the Gift Deed dated 15.10.2019 registered under Document No.2553/2019, on the file of the third respondent in respect of land in Survey No.382/1 situated at Sembianatham Village Group, Kadavur Taluk, Karur District admeasuring about 1.44 acres.

For Petitioner : Mr.V.Kannan

No appearance

For Respondents : Mr.K.Sathiya Singh

Additional Government Pleader

O R D E R

The case of the petitioner is that he has two children namely daughter Deepa who is married and son Ramesh, who is no more. His son was originally working as a daily wage labourer and according to the petitioner he had borrowed a sum of Rs.50 Lakhs from him and his sister. His son appears to have purchased some properties in Thiruvannamalai, Vellore and in Goa. Subsequently, his son got some ancestral properties transferred to his name for the purpose of advancing his business interest.

2.In consideration of his son's requirement, the petitioner has executed a gift deed on 15.10.2019, registered as Document No.2553/2019, in respect of the land in Survey No.382/1 situated at Sembianatham Village Group, Kadavur Taluk, Karur District,



admeasuring about 1.44 acres. His son also eventually settled down in his native village. However, unfortunately, his son met with an accident at Goa and passed away. The local police in Goa registered an FIR in Crime No.34 of 2020.

3. During his life time, his son had married one Sevanthi and from the wedlock they have two children. After the demise of the petitioner's son, the petitioner has requested his daughter-in-law to handover the documents pertaining to the ancestral property which was not acceded to and therefore, a complaint was lodged with the local police by the petitioner. Since no action was taken, the petitioner also approached the higher officials of police. According to the petitioner, he is entitled to the return of the documents pertaining to the ancestral properties in terms of Maintenance of Welfare of Parents and Senior Citizens Act, 2007. Since no action was forthcoming, the petitioner is before this Court seeking for issuance of a Writ of Mandamus to the respondents to cancel the gift deed dated 15.10.2019, which was registered on the file of the third respondent.

4. This Court is not inclined to entertain the Writ Petition for the simple reason that there are effective remedies available under the Provisions of the Maintenance of Welfare of Parents and Senior Citizens Act, 2007 and without availing the same, the petitioner cannot maintain this writ petition. In a dispute like this, when special mechanism is created under the above said Act, the same has to be exhausted before knocking the doors of this Court under Article 226 of the Constitution of India.

5. The authorities constituted under the Act alone are competent to decide the issue on hand on the basis of certain factual competent claims of the parties and instead of approaching the competent authority, the petitioner has needlessly and unnecessarily approached this Court. In any event, the issue as raised by the petitioner cannot be settled by this Court and also no direction could be given to the authorities for cancellation of the Gift Deed as these are matters which fall within the realm of a particular enactment and in that consideration, this Court finds that the writ petition is not maintainable.

6. For the above stated reasons, this writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



MR
To

1.The District Collector,
Karur District,
Karur.

2.The Revenue Divisional Officer,
Kulithalai,
Karur District.

3.The Sub-Registrar,
Tharakampatti Sub-Registrar Office,
Tharakampatti,
Karur District.

+1 CC to M/s.SPL GP (SR-12999[F] dated 23/03/2021)

PRE-DELIVERY ORDER MADE IN
W.P. [MD]No.6338 of 2021
17.04.2021

RK(13.05.2021) 3P 5C