

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.14928 of 2022

Manoj Kumar

...Petitioner

vs.

1. The District Registrar,
Office of the District Registrar,
Iraniyan Street - 3,
Annai Sathya Nagar,
Rangampalayam,
Erode - 638 009.
2. The Sub-Registrar,
Office of the Sub-Registrar,
Varanapuram,
Bhavani Taluk,
Erode District - 638 301.
3. The President
Thottipalayam Panchayat,
Bhavani Village,
Erode District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to cancel the gift deed executed to the third respondent vide Document No.4267 of 2013 dated 16.08.2013 for the formation of road in the land measuring to an extent of 4.90 acres in R.S.No.559/1 (Old S.No.555/A, B, 554/B, A, 573/A) in Bhavani Village, Bhavani Taluk, Erode District, by considering the petitioner's representation dated 06.04.2022.

For Petitioner : Mr.M.Guruprasad

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader
for R1 & R2
Mr. Balathandayutham
Special Government Pleader
for R3

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus directing the respondents to consider the petitioner's representation dated 06.04.2022, for cancellation of the gift deed executed in favour the third respondent vide Document No.4267 of 2013 dated 16.08.2013, for laying of road in his land admeasruing an extent of 4.90 acres in R.S.No.559/1 (Old S.Nos.555/A, B, 554/B, A, 573/A) situated in Bhavani Village, Bhavani Taluk, Erode District.

2. The case of the petitioner is that the property in above said survey numbers of an extent of 2.45 acres undivided share among 4.90 acres of land was originally owned by one Pushpa and Amsa @ Amsaveni. The said Pusha and Amsaveni executed a registered sale deed dated 27.03.2013 and transferred the above said property in favour of the petitioner. Thereafter, the petitioner is in possession and enjoyment of the said property. One G.Venkatachalam is the absolute owner of 1/5th undivided share in the above said property of an extent of 4.90 acres and the said Venkatachalam divided the above said property into housing plots in the name and style of "Shri Mahalakshmi Nagar". While that being so, the petitioner and said Venkatachalam executed a gift deed in favour of the third respondent for the purpose of laying road and other amenities. Since, the above said project was dropped, the petitioner made a representation dated 06.04.2022, before the respondents to cancel the gift deed dated 16.08.2013 executed in favour of third respondent. Since, the same was not considered by the respondents, the petitioner has filed the present Writ petition seeking the aforesaid relief.

3. Learned counsel for the petitioner submitted that admittedly the layout formed by the petitioner and the said Venkatachalam is an unapproved one. Thereafter, they executed a gift deed in favour of the third respondent for the purpose of laying road and other amenities. However the said project initiated by the petitioner and the said Venkatachalam was dropped. Hence the petitioner made representation before the respondents to cancel the sale deed and this Court may direct the respondents to pass order on the same within a time frame that may be stipulated by this Court.

4. Learned Special Government Pleader appearing for the respondents 1 and 2 submitted that the petitioner and said Venkatachalam executed a gift deed in favour of the third respondent. The dispute between the petitioner and the third respondent is purely civil in nature. Hence the issue in the present case can be adjudicated only before the competent civil

Court and not before this Court under Article 226 of the Constitution of India. Accordingly he prayed for dismissal of the present Writ Petition.

5. Learned Special Government Pleader appearing for the third respondent also reiterated the submission made by the learned Special Government Pleader appearing for the respondents 1 and 2.

6. Heard the arguments advanced on either side and perused the materials placed on record.

7. Considering the facts and circumstances of the case and also the fact that the petitioner and said Vengatachalam formed a layout in the name and style of "Shri Mahalakshmi Nagar" which is an unapproved one and subsequently, they executed a gift deed in favour of the third respondent, and once a gift deed is executed, the prayer for cancellation of the same cannot be entertained by this Court under Article 226 of the Constitution of India and no affirmative direction can be issued in favour of the petitioner. It is for the petitioner and the third respondent to decide the issue, in which this Court is not inclined to interfere with.

8. Accordingly, this Writ Petition is dismissed with liberty to the petitioner to workout his remedy in the manner known to law. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

RAP

To

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Office of the Sub-Registrar,
Varanapuram, Bhavani Taluk,
Erode District - 638 301.

3. The President
Thottipalayam Panchayat,
Bhavani Village,
Erode District.

+1cc to Mr.M.Guruprasad, Advocate, S.R.No.36410
+1cc to the Government Pleader, S.R.No.36961

W.P.No.14928 of 2022

SKM[co]
NSK/13/07/2022