



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.01.2022

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) .No.1583 of 2022

S.Murugesan

... Petitioner

Vs.

1.The District Registrar,
Madurai Registration District,
TNAU Nagar,
Rajakambeeram,
Thirumogur Road,
Y.Othakadai,
Madurai - 625 107.

2.The Sub Registrar,
Chokkikulam,
TNAU Nagar,
Rajakambeeram,
Thirumogur Road,
Y.Othakadai,
Madurai - 625 107.

3.The Commissioner,
Madurai Corporation,
Madurai.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the second respondent to allow the petitioner to cancel the road gift deed dated 14.02.2011 executed by the petitioner and registered as Doc.No.947/2011 on the file of the second respondent by considering the petitioner's representation dated 20.12.2021 within a time stipulated by this Court.

For Petitioner	:	Mr.S.A.Ganapathyraman
For R-1 and R-2	:	Mr.D.Ghandiraj, Special Government Pleader.
For R-3	:	Mr.K.K.Kannan, Standing Counsel.



ORDER

Heard lengthy arguments advanced by Mr.S.A.Ganapathyraman, learned counsel for the petitioner. Mr.D.Ghandiraj, learned Special Government Pleader, takes notice for the first and second respondents. Mr.K.K.Kannan, learned Standing Counsel, takes notice for the third respondent.

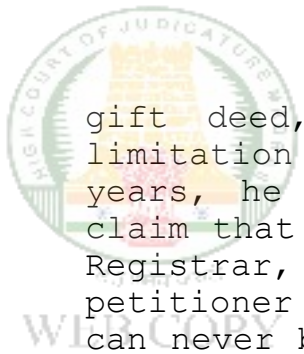
2. The Writ Petition has been filed in the nature of Mandamus seeking a direction to the second respondent / the Sub Registrar, Chokkikulam, Madurai, to permit the petitioner to cancel a road gift deed, dated 14.02.2011, which had been executed by the petitioner and had been registered as Document No.947/2011 in the office of the second respondent. The petitioner had given a representation dated 20.12.2021.

3. In the first place, if any individual seeks to register any particular document, it has to be done voluntarily and out of his own will and wish. There need not be any permission sought or granted by anybody for an individual to execute a particular document. In the instant case, the petitioner had so voluntarily executed a gift deed in the year 2011 and as a matter of fact, on 14.02.2011.

4. In the affidavit filed in support of the Writ Petition, the petitioner claims that he is aged 49 years. By any mathematical calculation, the petitioner should have been 39 years in the year 2011, when he had executed the gift deed. Plea of lack of knowledge or ignorance or innocence and therefore, seeking indulgence cannot be pleaded by the petitioner as he had voluntarily executed the gift deed.

5. A 'gift' is defined under Section 122 of the Transfer of Property Act. The definition is very clear. The definition is very straightforward. Section 122 of the said Act also deals with acceptance of a particular gift. It is stated that if the donee accepts the gift or it is accepted on behalf of the donee, then the act of gift becomes complete.

6. If the petitioner has reasons to frustrate the said gift, then he need not seek permission of the Sub Registrar to do that. There must be reasons given surrounding the execution of the gift deed. Here, the learned counsel states that the petitioner had no right to grant the road gift deed. Actually, there is a road available today. Learned counsel then stated that mistakenly, the gift deed was executed by the petitioner. The fact of mistake, cannot be pleaded because the gift deed was executed in the year 2011 when the petitioner was 39 years old. He was not a minor. He cannot claim that he had mistakenly executed the gift deed at that particular point of time. Having executed a gift deed, he is bound by the laws of the land. When he wants to frustrate that particular



gift deed, he should take up the issue within the period of limitation as stipulated in the Limitation Act, 1963. After 10 years, he cannot come to a Court, particularly a Writ Court and claim that this Court should direct the second respondent / the Sub Registrar, Chokkikulam, Madurai, to grant permission to the petitioner to execute a cancellation gift deed. Such a direction can never be issued by this Court. The petitioner for reasons best known to him, wants the road back, which road is now utilized by the respondents and is now in the possession of the respondents.

7. A perusal of the gift deed shows that the petitioner had very clearly stated that he has no right to cancel and frustrate the gift deed and that, even if he takes any steps to frustrate the gift deed, such steps would be void. There is no condition attached to the gift, as seen, from a reading of that particular document.

8. The relief sought in the Writ Petition cannot be granted. This Writ Petition is misconceived. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

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

1.The District Registrar,
Madurai Registration District,
TNAU Nagar,Rajakambeeram,Thirumogur Road,
Y.Othakadai,Madurai - 625 107.

2.The Sub Registrar,
Chokkikulam,
TNAU Nagar,Rajakambeeram,Thirumogur Road,
Y.Othakadai,Madurai - 625 107.

+1 CC to M/s.K.K.KANNAN, Advocate (SR-2881[F] dated 28/01/2022)

+1 CC to M/s.SPL.GP (SR-3144[F] dated 31/01/2022)

+1 CC to M/s.S.A.GANAPATHYRAMAN, Advocate (SR-3528[F] dated 01/02/2022)

**W.P. (MD) .No.1583 of 2022
28.01.2022**

MGJ(08.02.2022) 3P 6C

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