



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.02.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

W.P.[MD]No.3638 of 2022

B.Azeethu

... Petitioner

/Vs./

1.The District Collector,
Madurai District,
Madurai.

2.The Deputy Director (Town Panchayat),
Madurai District,
Madurai.

3.The Revenue Divisional Officer,
Madurai District,
Madurai.

4.The Thasildar,
Peraiyur Taluk,
Peraiyur,
Madurai District.

... Respondents

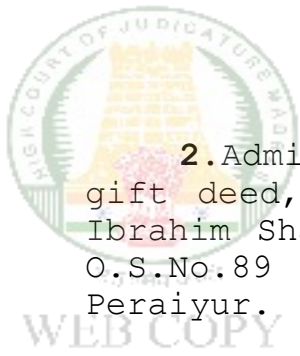
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the 1st Respondent to forbear the Respondent Nos.2 to 4 from in any way granting planning approval, building permission and taxes or permitting any development or construction activity in respect of S.No.382/2012, Peraiyur Village, Peraiyur Taluk, Madurai District, by considering the petitioner's representation dated 20.12.2021 within the period that may be stipulated by this Court.

For Petitioner : Mr.J.Sulthan Basha

For Respondents : Mr.M.Lingadurai
Special Government Pleader

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the first respondent to forbear the Respondent Nos.2 to 4 from granting planning approval, building permission and tax assessment or permitting any development or construction activity in respect of S.No.104/4A, Peraiyur Village, Peraiyur Taluk, Madurai District, by considering the petitioner's representation dated 20.12.2021, within a time frame to be fixed by this Court.



2. Admittedly, the petitioner has challenged the cancellation of gift deed, which was executed in his favour by his late brother, Ibrahim Shah, vide Document No.5029/2010 by filing a civil suit in O.S.No.89 of 2016 on the file of the District Munsif Court, Peraiyur. The said suit is still pending.

3. Instead of redressing his grievances before the Civil Court, the petitioner has parallelly given a representation to the first respondent to forbear the respondents 2 to 4 from granting planning approval, building permission and tax assessment or permitting any development or construction activity in respect of the very same property, which is the subject matter of the suit in O.S.No.89 of 2016.

4. Even according to the petitioner, the gift deed executed in his favour in the year 2010 was cancelled in the year 2012 itself. The petitioner has filed this writ petition, after giving representation on 20.12.2021 to the respondents after a lapse of almost 10 years from the date of alleged cancellation of the gift deed by the petitioner's late brother, Ibrahim Shah.

5. This Court, at this stage, cannot grant the relief as prayed for by the petitioner in a writ petition under Article 226 of the Constitution of India, when admittedly the suit filed by the petitioner challenging the cancellation of the gift deed is already pending on the file of the District Munsif Court, Peraiyur, in O.S.No.89 of 2016.

6. Therefore, this Writ Petition is disposed of by granting liberty to the petitioner to raise all contentions known to him under law, before the Civil Court, in respect of the challenge made by him to the cancellation of the gift deed by his late brother, Ibrahim Shah in the year 2012 in O.S.No.89 of 2016 pending on the file of the District Munsif Court, Peraiyur. There shall be no order as to costs.

Sd/-

Assistant Registrar (Crl side)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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,
<https://hcservices.ecourts.gov.in/hcservices>



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 Munsif, Peraiyur.
- 2.The District Collector,
Madurai District,
Madurai.
- 3.The Deputy Director (Town Panchayat),
Madurai District,
Madurai.
- 4.The Revenue Divisional Officer,
Madurai District,
Madurai.
- 5.The Thasildar,
Peraiyur Taluk,
Peraiyur,
Madurai District.

+1 CC to M/s.SPL GP (SR-9248[F] dated 01/03/2022)

W.P. [MD]No.3638 of 2022

Dated:**28.02.2022**

RK(10/03/2022) 3P 7C