



W.P.(MD)No.5627 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.11.2022

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THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P. (MD) No.5627 of 2018

P.Ramasamy (Died)

2.K.Thiyagamohan

... Petitioner

[Petitioner is substituted vide Court order dated 26.10.2022]

Vs.

1.The Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai-600 009.

2.The District Collector,
Virudhunagar District,
Virudhunagar.

3.The Block Development Officer,
Rajapalyam Panchayat Union,
Rajapalayam,
Virudhunagar District.

4.The Deputy Director of Health Services,
Virudhunagar District,
Virudhunagar.

... Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents 1 and 4 to consider the representation dated 19.07.2017 within a time frame fixed by this

Court

<https://www.mhc.trngovt.in/judis>



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For Petitioner : Mr.C.Prithviraj
For RR1, 2, & 4 : Mr.D.Gandhi Raj
Special Government Pleader

ORDER

This Writ Petition has been filed for issuance of writ of mandamus directing the respondents 1 and 4 to consider the representation, dated 19.07.2017 within a time frame fixed by this Court.

2.The father of the petitioner is the owner of the property in Survey No.1058. He had executed a gift deed on 21.04.1984, in favour of the third respondent for constructing a Primary Health Centre. But, the Primary Health Centre was constructed in some other place.

3.The father of the petitioner filed the writ petition. Pending writ petition, he died and the present petitioner was brought on record by way of substitution.

4.The learned counsel for the petitioner submitted that the father of the petitioner had gifted the said land for constructing a Primary Health Centre in favour of the third respondent. Now the primary health centre has been constructed in some other land and the same is functioning. From the year



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1984, the land is lying vacant without any use. Since the said land was not utilized by the respondent, the father of the petitioner sent a representation to the respondents 1 to 3 on 19.07.2017 seeking return of the land and the same was forwarded to the fourth respondent. Since the fourth respondent did not take any action in this regard, the petitioner has filed the present writ petition.

5.The learned Special Government Pleader has reiterated all the contentions set out in the counter affidavit filed by the fourth respondent. He submitted that the property of the petitioner is very much required for the purpose of constructing quarters and compound wall to the primary health centre. Due to some erroneous mistake that has made in typing the survey number in the documents as well as in the gift deed as 1049/1 instead of 1049/3, certain civil suits were filed. The said legal issue was now cleared. Revenue records were also mutated in the name of the primary health centre and the Government is taking steps to construct compound wall, quarters etc., in the said land. Hence, the prayer of the petitioner cannot be accepted at this stage.

6.Heard the learned counsel appearing on either side.



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7. There is no dispute regarding the gift deed executed by the father of the petitioner. Now the dispute is, the Primary Health Centre was not constructed in the property of the petitioner and the same constructed in some other place. Hence, the petitioner seeks return of the same on the ground that the property was not utilized for the purpose, for what the petitioner had donated it. Now, the Government decided to construct quarters and vehicles parking etc., for the primary health centre in the land of the petitioner.

8. Having gifted the land to the Government for the purpose of Primary Health Centre, the petitioner should not insist the Government to construct only Primary Health Centre in his land. It is for the Government to decide that the said land shall be used for building Primary Health Centre or for other ancillary purposes of Primary Health Centre. It cannot be stated that the purpose of giving gift is not met out for the simple reason that the Primary Health Centre is not constructed in the said land. If the petitioner makes allegation that the land is used for some other purposes other than the Primary Health Centre, he ought to have produced relevant proof and the same would have been considered by this Court. Hence, the claim of the petitioner for reconveyance of the land cannot be considered at this stage.

8. The petitioner in this writ petition only prays that it would suffice if the representation of the petitioner dated 19.07.2017 is directed to be



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considered. Hence, this Court directs the first respondent to consider the representation of the petitioner, dated 19.07.2017 and pass orders accordingly after affording an opportunity within a period of six weeks from the date of receipt of a copy of this order.

9. With the above direction, this Writ Petition is disposed of. No costs.

10.11.2022

Index : Yes/No
Internet : Yes/No
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To

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V.BHAVANI SUBBAROYAN, J.

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Order made in
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