



W.P.(MD)No.24378 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.11.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.24378 of 2022

P.Thoulath Meera

... Petitioner

Vs.

The Commissioner,
Puliyankudi Municipality,
Puliyankudi,
Tenkasi.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records of the impugned notice dated 19.07.2022 issued by the Respondent herein in his proceedings in சொ.பெ.மா.வி.எண்.259/2019/அ1 dated 19.07.2022 and quash the same as illegal and further direct the Respondent to change the tax Assessment Number Nos.142/9377, 142/9379, 142/1980, 142/9381, 142/9382 and 142/9383 in respect of Shop Nos.25, 26, 27, 27A, 27B and 27C in Road No.11, Ward No.17, Puliyankudi Village, Sivagiri Taluk, Tenkasi District from the name of Mahamed Masood Sha in favour of the Petitioner forthwith.

For Petitioner : Mr.S.Vashik Ali

For Respondent : Mr.Rajarajan
Standing Counsel



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ORDER

This Writ Petition has been filed challenging the impugned proceedings dated 19.07.2022, whereby, the Petitioner's request for transfer of property tax in Assessment Nos.142/9377, 142/9379, 142/9380, 142/9381, 142/9382 and 142/9383 in respect of Shop Nos.25, 26, 27, 27A, 27B and 27C from the name of Mohamed Masood Sha in favour of the Petitioner was not carried out, instead a direction was issued to produce the registered gift deed to effect the transfer of property tax in the name of the Petitioner.

2. It is submitted by the learned counsel for the Petitioner that the property belonged to Mohamed Masood Sha and it was gifted to his sister's children, i.e., the mother of the Petitioner and one Shahul Hameed. He further submitted that the gift deed may not require registration in view of the judgment of the Hon'ble Supreme Court of India in the case of ***Hafeeza Bibi and others vs. Shaikh Farid (Dead) by LRs. and others*** reported in ***2011 (3) SCC 608*** and the relevant paragraph is extracted hereunder:



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“34. Now, as regards the facts of the present case, the gift was made by Shaik Dawood by a written deed dated February 5, 1968 in favour of his son Mohammed Yakub in respect of the properties 'A' schedule and 'B' schedule appended thereto. The gift – as is recited in the deed – was based on love and affection for Mohammed Yakub as after the death of donor's wife, he has been looking after and helping him. Can it be said that because a declaration is reduced to writing, it must have been registered? We think not.”

It was thus submitted that the impugned proceedings is unsustainable.

3. The learned Standing Counsel for the Respondent submitted that the Petitioner may submit the documents, orders would be passed taking into account the judgment of the Hon'ble Supreme Court of India within a period of four weeks.

4. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.



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5. In view of the above submission and taking into consideration the facts and circumstances of the case and the limited relief sought for in this Writ Petition, the Petitioner is at liberty to submit the documents to the Respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the Respondent shall consider the Petitioner's request and pass appropriate orders in accordance with law, within a period of four weeks thereafter, after granting opportunity to the Petitioner and also putting all interested parties on notice. It is made clear that this Court has not expressed any view with regard to the merits of the case and it is open to the Respondent to consider the same on its own merits.

6. With the above directions, this Writ Petition is disposed of. No costs.

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Index : Yes / No
Speaking Order : Yes / No

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To

The Commissioner,
Puliyankudi Municipality,
Puliyankudi,
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MOHAMMED SHAFFIQ, J.

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