



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.5714 of 2023

K.Ganesan

... Petitioner

Vs.

1.The District Collector,
Perambalur District, Perambalur.

2.The District Registrar,
District Registrar Office,
Jayankondam Road, Ariyalur – 621 704.

3.The Sub Registrar,
Thuraiyur Road, Chettikulam,
Perambalur – 621 104.

4.Director of Town and Country Planning,
Department of Town and Country Planning,
Perambalur Region, Thirumangalam,
32/1, Periyar Street, Perambalur – 621 219.

5.The Block Development Officer,
(Village Unions), Perambalur – 621 220.

6.The Executive Officer,
Kalarampatti Village Panchayat,
Perambalur Taluk, Perambalur District.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 09.02.2022 bearing Na.Ka.No.1231 A2/ 2022 passed by the 2nd respondent and quash the same by directing the respondents to co-operate to execute and register the cancellation deed by cancelling the Gift Deed dated 05.03.2018 registered in the office of the Sub-Registrar Chettikulam as Document No.502 of 2018 and release the same to the petitioner.

For Petitioner	: Mr.P.Muthusamy
For R1 to R4	: Mr.E.Sundaram Government Advocate
For R5 & R6	: Mrs.N.Senthil Selvi

ORDER

The order passed by the District Registrar / 2nd respondent in proceedings dated 09.02.2022 is under challenge in the present writ petition.

2. Admittedly, the petitioner executed a Gift Deed at the time of seeking approval of layout under the provisions of the Tamil Nadu Town and Country Planning Act, 1971.



3. The learned counsel for the petitioner made a submission that the petitioner has dropped his proposal to form the layout and accordingly, intimated the authorities with a request to re-convey the gifted property. The District Registrar passed the impugned order stating that the unilateral cancellation of Gift Deed is impermissible under the provisions of the Registration Act. Therefore, he cannot consider the proposal of the writ petitioner to cancel the Gift Deed executed by the petitioner in favour of the Keelakarai Village Panchayat, Perambalur Taluk, Perambalur District.

4. The learned counsel for the petitioner mainly contended that the purpose for which the Gift Deed was executed has not been materialised, since the petitioner had taken a decision to drop the layout formation. Thus, he is entitled to get back his property, which he gifted in favour of the Village Panchayat.

5. Unilateral cancellation of gift deed as rightly pointed out by the District Registrar cannot be done. If at all the petitioner has dropped the proposal for forming a layout, the Block Development Officer, who is the subordinate official cannot take a decision to re-convey the land, which was



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already gifted to the Village Panchayat. There is no specific provision under the Tamil Nadu Town and Country Planning Act to re-convey the gifted property again in favour of the persons, who gifted. If at all a decision is to be taken, it is to be considered at the Government level and only after obtaining appropriate order from the Government, the competent authority is empowered to execute the cancellation deed cancelling the gift deed and re-convey the land to the person concerned.

6. Therefore, the Block Development Officer, unilaterally cannot take a decision to cancel the gift deed executed under the provisions of the Town and Country Planning Act. Even in case, if Court issues such direction in the absence of any provisions under the Town and Country Planning Act, the same will result in a wrong precedent and therefore, the petitioner has to make an appropriate application to the Secretary to Government, Rural Development and Panchayat Raj Department, who in turn shall consider the application submitted by the petitioner and take an appropriate decision and issue orders as expeditiously as possible on merits and in accordance with law.



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7. Contrarily, High Court in a writ proceeding cannot direct the Block Development Officer or the Subordinate Authorities to cancel the Gift Deed executed otherwise under the provisions of the Tamil Nadu Town and Country Planning Act, 1971. Admittedly there is no provision of the Act to re-convey the land which is already gifted. Considering the grievances and its genuinity, the Government is empowered to consider the same on merits. Thus, the petitioner has to approach the Government in this regard.

8. Accordingly, the Writ Petition stands disposed of. No costs.

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(2/2)

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



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