



WEB COPY

W.P.No.17460 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.17460 of 2023

D. Nandhagopal

... Petitioner

Vs.

1. The Inspector General of Registration,
Santhome, Mylapore,
Chennai-600 005.

2. The Sub Registrar,
Periyanayakanpalayam,
Coimbatore District.

3. The Narasimanayakanpalayam Municipality,
represented by its Executive Officer,
Narasimanayakanpalayam,
Coimbatore - 641 031.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating impugned Check Slip in No.56/2022 dated 24.09.2022 and Check Slip in No.57/2022 dated 24.09.2022 of the 2nd respondent and connected impugned communication in Na.Ka No.214/2022 dated 24.11.2022 of the 3rd respondent in refusing NOC and quash the same as illegal and



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consequently direct the 2nd and 3rd respondents to register the deeds of cancellation dated 24.09.2022 presented by the petitioner in office of the Sub Registrar, Periyannayanpalayam in respect of the land situated at Narasimmanayanpalayam Village, Coimbatore North Taluk, Coimbatore District without insisting NOC from the 3rd respondent within the time frame fixed by this Court.

For Petitioner : Mr.I.Abdul Basith

For Respondents : Mr. T. Arunkumar
Additional Government Pleader.

ORDER

The impugned refusal check slip passed by the 2nd respondent in Proceedings dated 24.09.2022 is under challenge in the present Writ petition.

2. The petitioner states that the petitioner is holding right over the subject property described in the Writ Petition. The petitioner had intended to sale the part of the property by forming lay out of plots and the said lay out was named as “Dhamu Nagar Phase-1” and “Dhamu Nagar Phase-II”. As required under the provisions of Town and Country Planning Act, the petitioner executed a Gift Deed in favour of the Municipality for forming



road in the layout. Gift deeds were registered in two separate documents vide Doc. No.12642 of 2016 and Doc. No.12643 of 2016 dated 01.09.2016.

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3. After executing the gift deeds, the petitioner found that he cannot develop the layout since the subject property is an agricultural land. Accordingly, the petitioner dropped the proposal for forming layout. Thereafter, he presented a cancellation deed to cancel the gift deed executed in favour of the municipality. The said deed of cancellation presented by the writ petitioner was refused on the ground that the petitioner cannot unilaterally cancel the gift deed executed in favour of the Municipality.

4. The reason stated by the Sub-Registrar in the impugned order is in consonance with the provisions of the Registration Act as the unilateral cancellation of gift deed is impermissible in law.

5. However, the case of the petitioner is that he has dropped the formation of lay out since it is an agricultural land and therefore, the gift deed is to be cancelled. In this regard, the petitioner has to approach the Civil Court of law for the purpose of securing an appropriate decree of



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declaration or to approach the Government for the purpose of getting relief in the manner known to law. However, the registering authority or the local authorities are not empowered to execute a cancellation deed of the gift deed executed under the provisions of the Town and Country Planning Act or under any other statute. In this regard, the petitioner is at liberty to work out his remedy in the manner known to law.

6. Accordingly, this Writ petition stands **disposed of**. No costs.

22.08.2023

Index : yes
Speaking order
Neutral Citation: yes
mjs/sha



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To

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S.M.SUBRAMANIAM, J.

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