



W.P.No.22912 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2023

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.22912 of 2017

P.Thangamani

...Petitioner

-Vs-

1.The District Collector,
Erode District,
Erode.

2.The Block Development Officer(Panchayat),
Modakurichi Panchayat Union,
Erode District.

3.The Special Officer,
46, Pudhur Panchayat,
Modakurichi Panchayat Union,
Erode District.

4.The Sub Registrar,
Avalpoondurai,
Modakurichi Taluk,
Erode District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus calling for the records



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relating to the order passed by the first respondent in his proceedings vide Na.Ka.No.1166/2017/A4 dated 01.07.2017 and quash the same and consequently direct the first respondent to cancel the invalid gift deed dated 27.03.2002 registered before the Sub Registrar, Avalpoondurai on 03.04.2002 vide Document No.833/2002.

For Petitioner : Mr.C.Munusamy
For R1 and R4 : Mr.T.Arun Kumar,
Additional Government Pleader
For R2 and R3 : Mr.E.Sundaram,
Government Advocate

ORDER

The order passed by the District Collector in proceedings dated 01.07.2017, rejecting the application submitted by the writ petitioner to cancel the gift deed executed by his maternal grandfather gifting a portion of the property for the purpose of formation of road, is under challenge in the present writ petition.

2. The petitioner states that his maternal grandfather one Vella Gounder had owned an agricultural land to an extent of 4.00 acres in Survey



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No.173/3B situated at Pudhur Village, Modakurichi Taluk, Erode District.

Admittedly, the said agricultural land was divided into house sites without due sanction from the planning authorities. Since the unapproved layout was formed by the maternal grandfather of the petitioner during the relevant point of time, he executed a gift deed in favour of the Panchayat Union, Modakurichi, for the purpose of formation of road and to provide infrastructural facilities to the people purchasing the house sites in the unapproved layout.

3. The learned counsel for the petitioner states that the maternal grandfather of the petitioner had not submitted any application for approval of the layout before the competent authority. The gift deed was executed before Panchayat Union and therefore, he has submitted an application to cancel the gift deed. The District Collector failed to consider the fact that the layout was not approved nor the maternal grandfather of the petitioner has submitted an application for approval of the layout. Without considering these aspects, the impugned order of rejection was passed and thus, the petitioner is constrained to move the present writ petition.



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4. The learned Government Advocate appearing for the respondents 2 and 3 submitted a copy of the encumbrance certificate obtained from the Registration department, which would reveal that the unapproved plots were sold by the maternal grandfather of the petitioner to various third parties and some of the plots were left out. The encumbrance certificate reveals that many such house sites were already sold out in favour of the third parties.

5. It is further brought to the notice of this Court that the purchasers of the unapproved plots are constructing houses and utilizing a portion of the road, which is now being maintained by the Panchayat Union. That apart, there is no provision to cancel the gift deed executed in favour of the local authority for the formation of public roads and to provide infrastructural facilities. In the present case, the maternal grandfather of the petitioner, in the year 2002, formed unapproved layout of these agricultural lands and sold the house plots to various third parties, who in turn, had constructed houses and are residing therein and utilizing the gift portion of the property as road.



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6. This being the factum, the impugned order passed by the District Collector is in consonance with the principles. The property which has been gifted, is now being utilized by public and the persons residing in the locality. Thus, the petitioner has not established even a semblance of legal right for considering the relief as such sought for.

7. Accordingly, the writ petition stands dismissed. No costs.

23.08.2023

Index:Yes
Speaking order
Neutral Citation:Yes/No
rjr/hvk



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S.M.SUBRAMANIAM, J.

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