



W.P(MD)No.3706 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.10.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3706 of 2022

P.Kannan

... Petitioner

Vs.

1.Government of Tamil Nadu,
Represented by the Secretary,
Department of Registration,
Chennai.

2.The Inspector General of Registration,
O/o. Registration Department,
Tamil Nadu Registration Department,
No.100, Santhome Highway,
Chennai.

3.The Sub-Registrar,
O/o. Registration,
Tenkasi District,
Tenkasi.

4.The Tahsildar,
Tenkasi District,
Tenkasi.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the



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respondents No.1 and 2 to cancel the gift settlement deed in survey number 77 in an extent of 40 cents in Mattalamparai village, Tenkasi District in Document No.1111/2015 dated 15.06.2015 and to restore it in earlier position within the time stipulated by this Court.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.K.Balasubramani,
Spl. Government Pleader.

ORDER

Heard both sides.

2.The petitioner had executed gift deed dated 15.06.2016 in favour of the second respondent. The gift was with a purpose. It was the understanding between the parties that on the gifted land, the office of the Sub-Registrar will be constructed. Though the department accepted the gift, they chose to put up office of the Sub Registrar, Tenkasi in some other place and not in the gifted land. Thus, the purpose for which the gift was made had been rendered infructuous. The petitioner therefore wants to cancel the document itself.



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3.Representation was made in this regard. Since the respondents did not come forward to have the document cancelled, the present writ petition came to be filed.

4.The issue raised in this writ petition is no longer *res integra*. The Hon'ble Division Bench of this Court by order dated 13.11.2017 in W.A.No.1448 of 2017 held as follows:-

“8.In Tahsildar Pollachi and another vs.P.Bagyalakshmi, judgment dated 30 October 2017, in W.A.No.836 of 2017, a similar issue regarding gift of land for constructing school building and the claim for return of the land on the ground of non utilization came up for consideration before this Court. While directing the Government to consider the request, this Court made the following observation:-

The gift of the land was given for a specific purpose. The construction of school building in the name of the donor was the sole object of the gift. There is a marked difference between acquisition of land and the demand for reconveyance later on account of the failure to utilise the land for the purpose for which it was acquired and a gift of land for a particular public purpose and claim made by the donor for return of land on the ground that the land was not used for the



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particular purpose for which it was gifted. In case, it is a compulsory acquisition for a public purpose, the scope of re-conveyance under Section 48-B is very limited. The Government must be satisfied that the land was not used for the specific purpose and it is not necessary for any other public purpose. Then only, the question of re-conveyance would arise. However, in a case of this nature, when the purpose of gift failed to materialise, the donor would be justified in claiming the land back. There is no right for re-conveyance under Section 48-B of the Land Acquisition Act, 1894. There is only a right to consider the request for re-conveyance. However, that is not the case in case it is a conditional gift for construction of school building, hospital, etc., and on account of subsequent events or efflux of time, the object is no more in existence. In case a request is made by the donor on account of the non-accomplishment of the purpose for which gift of land was given, the Government must consider such request giving due weight to the wishes of the donor which executing the gift deed donating the land for the purpose indicated therein.

9. Similar issue came up for adjudication before the Division Bench of the Madurai Bench of this Court in M.Thiyagarajan v. The State of Tamil Nadu and others [2017-2-Writ L.R.349]. The donors gifted about 25 acres of land of establishing Karur Government



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Medical College at Kuppuchipalayam Village. The Government accepted the gift and issued an order sanctioning funds for construction of medical college. The Public Works Department awarded contract to a local contractor for construction. Subsequent inspection of land by the Director of Medical Education found that the land was not fit for establishing a medical college on account of its locational disadvantages. The Government therefore decided to take another land owned by a Religious institution in exchange of the gifted land. In the meanwhile, Karur Municipality, resolved to allot 20 acres of its prime land in Karur Town for construction and establishment of Government Medical College. While so, the donors, the contractor and a local politician filed writ petitions before the Madurai Bench to direct the Government to establish the medical college at the land gifted by the donor. The Writ Court granted interim stay and restrained the Government from changing the location. Another writ petition was filed in public interest to accept the municipal land. The Division Bench following the judgment of the Hon'ble Supreme Court in Abraham T.J. V. The State of Karnataka [2017 (7) Scale 641] held that it is the prerogative of the Government to select the land for establishing medical college and there is no legal right to claim that only the land gifted by the donor should be used for the public purpose. While dismissing the writ petition filed by the donors and upholding the decision taken by the Government to accept the land offered by the Karur Municipality, the Division Bench directed the Government to return the gifted land to the donors on account of the subsequent events.”



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5.I had followed the decision of the Hon'ble Division Bench in W.P.(MD)No.7678 of 2009 [reported in **2019 SCC Online Mad 1685 (K.Veerukannian Vs. Chief Secretary of Government of Tamil Nadu)**].

In that case, the land was gifted for constructing an additional school building. Even though the donation was made for a specific purpose, no such additional building was constructed. I, therefore, directed reconveyance of the land in question by cancelling the gift deed.

6.The very same approach has to be necessarily adopted in the present case. The basic facts are not in dispute. The Sub Registrar, Tenkasi is directed to cancel the petition mentioned gift deed within a period of four weeks from the date of receipt of a copy of this order. Thereafter, the gifted land shall be formally handed over to the petitioner.

7.This writ petition is allowed accordingly. No costs.

09.10.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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- 2.The Inspector General of Registration,
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G.R.SWAMINATHAN, J.

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