



W.P.(MD) No.9329 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.01.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.9329 of 2016
and
W.M.P.(MD) No.7392 of 2016**

P.Palanisamy

... Petitioner

/vs./

1.The Inspector General of Registration,
No.100, Santhome High Road,
Pattinapakkam,
Chennai 600 028.

2.The District Registrar (Administration),
Karaikudi,
Sivagangai District.

3.The Sub Registrar,
Singampunari Sub Registrar Office,
Thiruppathur Taluk,
Sivagangai District.

4.Bhuvaneswari

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 to 3 to strike off the



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registration of Document bearing No.480/2016, dated 16.03.2016 on the file of the 3rd respondent.

For Petitioner : Mr.M.Saravanan

For R1 to R3 : Mr.S.Shanmugavel
Additional Government Pleader

For R4 : Mr.S.Ramesh

ORDER

The writ petition is challenging the registration of a unilateral cancellation deed executed by the fourth respondent herein.

2.The fourth respondent had originally executed a gift deed in favour of the petitioner on 17.07.2014 vide Doc.No.840/2014 on the file of the third respondent herein. The question of registration of an unilateral cancellation deed is no longer *res integra*, in view of the Full Bench decision of this Court in the case of ***Sasikala and another Vs. The Revenue Divisional Officer cum Sub Collector, Sivagangai and others*** reported in ***2022 (5) CTC 257***. The relevant paragraph of the aforesaid judgment is extracted hereunder:-

“42. Section 126 of the Transfer of Property Act recognizes the power of revocation where the donor reserves a right to suspend or



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revoke the gift on happening of any specified event. However, the illustrations clarifies that the revocation should be with the assent of the donee and it shall not be at the will of donor as a gift revocable at the mere Will of the donor is void. The Sub- registrar cannot decide whether there was consent for revocation outside the document. If the donor by himself reserves a right to revoke the gift at his Will without the assent by donee, the gift itself is void. Since we are dealing with unilateral cancellation, the power of registration of cancellation or revocation of gift deed cannot be left to the discretion or wisdom of registering authority on facts which are not available or discernible from the deed of gift. When the power of revocation is reserved under the document, it is permissible to the registering officer to accept the document revoking the gift for registration only in cases where the following conditions are satisfied;

(a) There must be an agreement between the donor and donee that on the happening of a specified event which does not depend on the Will of the donor the gift shall be suspended or revoked by the donor.

(b) Such agreement shall be mutual and expressive and seen from the document of gift.

(c) Cases which do not fall under Section 126 of Transfer of Property Act, unless the cancellation of Gift or Settlement is mutual, the registering authority shall not rely upon the self serving statements or recitals in the cancellation deed. For example questioning whether



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the gift deed was accepted or acted upon cannot be decided by the registering authority for the purpose of cancelling the registration of gift or settlement deed.”

3.In view of the aforesaid judgment, the registration of the document impugned in this writ petition is a void registration. Hence, the Mandamus as prayed for in this writ petition is issued and the rule nisi is made absolute. However, the fourth respondent is at liberty to approach the appropriate civil Court for appropriate remedy available to him.

4.With the above direction, the Writ Petition is allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

10.01.2023

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K.KUMARESH BABU, J.

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