



W.P(MD)No.28449 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:31.03.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.28449 of 2022

Rahmadullah Rowther

... Petitioner

Vs

1. The District Registrar,
The District Registrar Office,
Pudukkottai District.
2. The Sub Registrar,
Sub Registrar Office, Annavasal,
Pudukkottai District.

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned refused check slip, dated 21.11.2022 and quash the same as illegal and unconstitutional and consequently directing the second respondent herein to register the document.

For Petitioner

:Mr.B.Jameel Arasu

For R1 to R4

:Mr.C.Satheesh
Government Advocate



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ORDER

The Writ Petition has been filed in the nature of Certiorarified Mandamus, seeking interference with the refusal check slip No.RFL/Annavasal/51/2022, dated 21.11.2022, issued by the second respondent/Sub Registrar, Annavasal, Pudukkottai District and direct the said respondent to register the document.

2.In the affidavit filed in support of the writ petition it has been stated that the petitioner is the sole owner of the properties in S.Nos.146/2A, 146/4, 147/4, 147/9, 148/4, 148/5D, 148/6, 145/4B, 146/7, 148/7, 124/1, 124/17B, 124/2, 124/4, 124/6, 128/1, 128/2, 129/10, 129/11, 129/1A, 129/2, 129/4, 129/3, 129/9 at Mukkannamalaipatti, Veerapatti village, Illupur Taluk, Pudukkottai District. The said lands were originally purchased by his grandfather by name M.S.P.Mohammed Yusuf Rowther. Subsequently, he had by an oral Hiba, gifted the properties in favour of the petitioner herein, in the presence of two witnesses.

3.It is needless to point out that oral Hiba in the presence of two witnesses is recognized as a lawful gift under Mohammedan Law. In order to



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confirm the said hiba, in the instant case the same was also written down in the presence of two witnesses.

4.Now, the petitioner had taken a decision to execute a gift settlement deed in favour of his son. He had prepared a gift settlement deed and presented it before the second respondent for registration on 18.11.2022. By way of the refusal check slip, the document was refused to be registered stating that the document recognising the oral Hiba should have been registered. That may not be a correct interpretation by the second respondent.

5.Mohammedan Law recognizes that a gift need not be reduced in writing. It requires a donor to hand over possession and the donee to accept and take possession of the property gifted. These are the primary conditions to be satisfied. As per Mohammedan Law, an oral Hiba is valid. Therefore, the refusal check slip issued by the second respondent is set aside.

6.A direction is given to the petitioner to present the gift settlement deed once again before the second respondent through online, after following due procedure. When it is so re-presented, the second respondent is



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directed to re-examine the facts and take a decision to register the same, if the document is otherwise adequately stamped and necessary registration charges are paid.

7. With the above directions, this writ petition stands disposed of.

No costs.

31.03.2023

NCS : Yes/No
Index : Yes/No
Internet: Yes/No

PNM

To

1. The District Registrar,
The District Registrar Office,
Pudukkottai District.
2. The Sub Registrar,
Sub Registrar Office, Annavasal,
Pudukkottai District.



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C.V.KARTHIKEYAN, J.

PNM

ORDER IN
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