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W.P.No.4027 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2024

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THE HON'BLE MR. JUSTICE G.K. ILANTHIRAIYAN

W.P.No.4027 of 2021 and W.M.P. No.4599 of 2021

S.Shanmugham

... Petitioner

Vs.

1. The District Collector,
O/o. Collectorate,
Krishnagiri District.

2. The Block Development Officer,
O/o. Block Development Office,
Kaveripattinam,
Krishnagiri District.

3. The District Chairman,
Krishnagiri Panchayat Union,
Krishnagiri District.

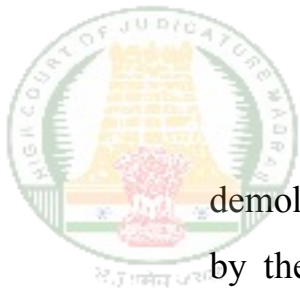
4. The President,
Thattarahalli Village Panchayat,
Krishnagiri Taluk and District.

5. Manimegalai

6. Ramesh

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Mandamus, directing the first respondent to



demolish the bus shelter constructed unauthorisedly and in illegal manner by the respondents 2 to 6 in the patta agricultural land of the petitioner under the guise of putting up a bus shelter in the agricultural land to an extent of 161 sq.ft. comprised in S.No.315/3B2 and to an extent of 387 sq.ft. in S.No.307/5 in altogether a total extent of 548 sq.ft. situated at Thattarahalli Village, Krishnagiri Taluk and District and handover the possession of land to the petitioner within a stipulated time.

For Petitioner : Mr.G.Ethirajalu

For Respondents : Mr. S.Jayachandran
Government Advocate
for R1 to R4

ORDER

The writ petition has been filed, seeking a direction to the official respondents to demolish the bus shelter constructed, unearthed in the petitioner's patta land to an extent of 161 sq.ft., comprised in S.No.315/3B2 and to an extent of 387 sq.ft. in S.No.307/5 and in altogether a total extent of 548 sq.ft., situated at Thattarahalli Village, Krishnagiri Taluk and District.

2.The petitioner is an agriculturist and the agricultural properties, comprised in S.Nos.315/5, 314/1C, 309/1B, 310/2, 307/5 and 315/32B, situated at Thattarahalli Village, Krishnagiri District and other properties are his ancestral properties. Subsequently, by a Partition Deed dated 17.03.2008



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registered vide Doc. No.714 of 2008, the properties were divided and under the said document, Schedule 'C' properties were allotted to the petitioner. Thereafter, the petitioner was also issued with patta bearing Nos.1364 and 1365. Since the respondents 5 and 6 are the District Chairman and President of the Panchayat, namely, respondents 3 and 4, due to political issue, in the year 2020, without any notice to the petitioner, respondents 5 and 6 have trespassed into the patta land of the petitioner, to an extent of 161 sq.ft. comprised in S.No.315/3B2 and 387 sq.ft. in S.No.307/5 and altogether total extent of 548 sq.ft. and constructed a bus shelter. Immediately after commencement of the work, the petitioner objected to the same. However, with the legal support, they have constructed the bus shelter in the patta land, owned by the petitioner. Therefore, the petitioner also sent a legal notice to the respondents 1 and 2 to stop the work. Since no action has been taken as against them to stop the work, the petitioner was constrained to file a suit in O.S. No.109 of 2020 on the file of the District Munsif Court, Krishnagiri. However, the said suit was dismissed as infructuous in view of the fact that entire construction was over. Therefore, the petitioner filed this writ petition seeking demolition of the bus shelter and to restore the patta land in his favour.



3. Counter affidavit has been filed by the second respondent on behalf of the respondents 1, 3 and 4 stating that the subject land was already gifted by the petitioner vide Gift deed dated 25.09.2020. Therefore, the petitioner is estopped from restoring his gift by this Writ Petition. That apart, the petitioner filed a suit in O.S. No.109 of 2020 and the same was also dismissed by the District Munsif Court, Krishnagiri. However, the petitioner disputed the gift deed, which was executed by him.

4. According to the petitioner, the above Gift Deed was not executed by him and it is a fabricated one. On a perusal of the Gift Deed, dated 25.09.2020, it is seen that the signature of the petitioner is not found in the first page and the petitioner signed in the 2nd page, that too in reverse. The said Gift Deed was notarised by the notary public. That apart, in the first page, the notary signed with the date of 25.09.2020 and in the second page, he stated the date as 28.09.2020. Therefore, this Court called for original Gift Deed, which was allegedly produced before the District Munsif Court, Krishnagiri in O.S. No.109 of 2020.



5.This Court is of the view that the Gift Deed is a fabricated one as the same was produced by the respondents to nullify the suit filed by the petitioner before the District Munsif Court, Krishnagiri or some other reasons. The second respondent has produced the copy of the Gift Deed to show as if the same was executed by the petitioner in favour of the fourth respondent, but the petitioner has disputed the above Gift Deed. On verification, it is found that the admitted signature of the petitioner, contained in the Partition Deed dated 17.03.2008, registered in Document No.714/2008 on the file of the SRO, Karimangalam would not tally with the signature of the petitioner in the alleged Gift Deed dated 28.01.2020, issued by the second respondent. Therefore, the petitioner has rightly impleaded respondent Nos.3 and 4 in their personal capacity as respondent Nos.5 and 6. Though notice served on them, they have failed to appear before this Court either through counsel or by themselves.

6.On perusal of the Revenue records, it is revealed that the land comprised in S.Nos.315/3B2 and 307/5 belong to the petitioner. Admittedly, the bus shelter has been constructed in the petitioner's patta land, admeasuring 548 sq.ft. comprised in both S.Nos.315/3B2 and 307/5,



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situated at Thattarahalli Village, Krishnagiri Taluk. However, now the bus shelter is under usage by the general public. Since it is proved that the Gift Deed is a fabricated one, this Court is inclined to direct the first respondent to demolish the bus shelter and handover the vacant portion of the said property to the petitioner.

7. In view of the above, the first respondent is directed to demolish the bus shelter and handover the vacant portion of the said property to the petitioner, within a period of six weeks from the date of receipt of a copy of this order.

8. Accordingly, this writ petition is allowed. No Costs. Consequently, connected miscellaneous petition is closed.

25.10.2024

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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To

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