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W.P.No.27042 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2024

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.27042 of 2024

Hemalatha

...Petitioner

Vs.

- 1.The Secretary
Government of Puducherry
Department of Hindu Religious Institutions and Wakf
No.3, 3rd floor, Yanam Vwngadasalam Pillai St,
MG Road Area, Puducherry 605 009.
- 2.The District Registrar
Pudukottai District Registrar Office
Pudukottai 622 001.
- 3.The Commissioner
Hindu Religious Institutions and Wakf
Government of Puducherry.
- 4.The Executive Officer
Sri Dharbaranyeswaraswamy Devasthanam
Thirunallar
Karaikal.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the fourth respondent to act upon the communication sent by the second respondent to the third respondent dated 21.06.2023 to cancel the gift deed in document No.6764/2022 dated 17.10.2022.

For Petitioner : Mr.SU.Srinivasan
for Mr.V.Ashok Kumar
For Respondents : Mr.M.Nirmalkumar for R1, R3 & R4
Government Advocate
Mr.P.Harish for R2
Government Advocate

ORDER

The petitioner herein seeks a direction to the fourth respondent to act upon the communication sent by the second respondent to the third respondent dated 21.06.2023 to cancel the gift deed executed by the petitioner in favour of the fourth respondent temple, registered as Doc.No.6764 of 2022 dated 17.10.2022 on the file of the SRO, Pudukottai.

2. It is the case of the petitioner that she executed a gift deed in favour of the fourth respondent temple in respect of the property situated in Pudukottai covered by the gift deed dated 17.10.2022. Now, the petitioner wants to cancel the gift deed.



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3. According to the petitioner, the above said gift deed was executed by her without getting consent from her son and she had no absolute right to execute such a gift deed and hence, the above gift deed executed by her is not valid. Therefore, she wanted to cancel the same. Hence, the petitioner submitted a representation to the fourth respondent and thereafter, the third respondent issued a communication to the second respondent seeking his opinion regarding the procedure for cancellation of the gift deed. In the communication of the third respondent dated 26.05.2023, there is no reference about the representation submitted by the petitioner before him. It is not clear, on what basis, the third respondent issued a communication to the second respondent seeking his opinion regarding the legal procedure for communication of the gift deed.

4. It is clear that already the registered gift deed was executed by the petitioner in favour of the fourth respondent temple and the property vested with the Temple. The unilateral cancellation of the gift deed is not permissible under law.



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5. It is the case of the petitioner that the gift deed was executed by her hastily when she was in bad state of mind. If it is the case of the petitioner that her consent to gift deed was vitiated by flaw in consent, it is for her to workout her remedy before the Civil Court. The communication by the third respondent to the second respondent seeking the procedure for cancellation of the gift deed is wholly unwarranted.

6. Therefore, this Court is not inclined to issue a direction to the fourth respondent to act on the communication issued by the third respondent to the second respondent. When the property is already vested with the temple, the fourth respondent cannot give his consent for cancellation of the gift deed. Any such action by fourth respondent would be detriment to the interest of the temple. Hence this is not a case in which Mandamus can be issued to fourth respondent. Further, it is undisputed that the property is situated at Pudukottai in the State of Tamil Nadu. Hence provision of Tamil Nadu Hindu Religious and Charitable Endowments Act is applicable to the property of fourth respondent temple within the territory of state of Tamil Nadu and hence any alienation of temple property without permission of the Commissioner, HR & CE is not permissible.



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7. In such circumstances, this Court is not inclined to issue a direction to the fourth respondent, hence, this Writ Petition is dismissed. It is open to the petitioner to workout her remedy before the Civil Court.

11.09.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
dna

To

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