



W.P.No.22916 of 2019

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 09.09.2024

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.22916 of 2019

The Managing Trustee,
Mrs.Hidayah Islamic trust,
No.92, Market street,
Karaikal.

.. Petitioner

Vs

1.The Member Secretary,
Karaikal Planning Authority,
Karaikal.

2.The Government of Puducherry,
Rep. By its Secretary,
Housing Town and Country Planning Dept.,
Puducherry.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India seeking for issuance of a writ of certiorarified mandamus to call for the records of the first respondent ending No.1325/KPA/KM-KKDY/RUL(IP)-269/2018/1797, dated 17.06.2019 and quash the same and consequently direct the respondents to regularize the plot at R.S.No.115/1pt, TS.No.16/1pt Ward 1, Block 03, plot 30, Khalid Nagar, Medical College Road, Keezhakasakudy Village, Karaikal, as sought for by the petitioner.



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For Petitioner : Ms.M.Nuzhath Khanam
for Mr.Nissar Ahmed N.A
For Respondents : Mrs.G.Djearany, GA (Pondy)

ORDER

The writ petition has been filed challenging the impugned order passed by the first respondent rejecting the request of the petitioner to regularize their house plot located at R.S.No.115/1pt, TS.No.16/1pt Ward 1, Block 03, plot 30, Khalid Nagar, Medical College Road, Keezhakasakudy Village, Karaikal.

2. The property comprised in No.14, Keezhakasakudi, Khalid Nagar, Ward 1 Block 3, T.S.No.16/1, R.S.No.115/1, Patta No.1185, measuring 13 Are, 91 Cantiar Nanjai, belongs to one Thariq, son of Mohammed Siddique by virtue of settlement deed bearing document No.2249/09. Subsequently, the said Thariq executed a power of attorney deed dated 22.08.2016 appointing Amanullah as his power of attorney to execute gift deed in favour of the petitioner trust. Based on the same, Deed of Hiba dated 15.12.2016 was executed in favour of the petitioner trust. Since it is unapproved land, the petitioner submitted application



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for regularization of the land in question. However, it was rejected on the ground that as per G.O.Ms.No.20/17-Hg, dated 20.10.2017 of Chief Secretariat (Hg), Puducherry, only registered sale deed / title deed shall be considered for regularization of unapproved plots.

3. Learned counsel for the petitioner would submit that under Section 129 of the Transfer of Property Act, Hiba executed in favour of the petitioner does not require registration.

4. On the other hand, learned Government Advocate appearing for the respondents would submit that as per G.O.Ms.No.20/17-Hg, dated 20.10.2017 of Chief Secretariat (Hg), Puducherry, unapproved plot with registered sale deed shall be considered for regularization. Therefore, since the Hiba executed in favour of the petitioner trust is not a registered one, the first respondent has rightly refused to regularize the plot in question.

5. For better understanding, Section 129 of the Transfer of Property Act, 1882, is extracted below:-

**129. Saving of donations mortis causa
and Muhammadan Law.—**

Nothing in this Chapter relates to gifts of



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moveable property made in contemplation of death, or shall be deemed to affect any rule of Muhammadan law.

6. In view of the above said provision, it is clear that the Deed of Hiba does not require registration. Admittedly, the petitioner was settled with the subject property by way of Deed of Hiba on 15.12.2016, i.e., prior to the cut off date of 30.01.2017 prescribed under the above said GO. Therefore, the impugned order passed by the first respondent is liable to be quashed and accordingly it is quashed and the first respondent is directed to regularize the subject property as requested by the petitioner on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. With this direction, the writ petition stands allowed. No Costs. W.M.P.No.22552 of 2019 is closed.

09.09.2024

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To

- 1.The Member Secretary,
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Karaikal.
- 2.The Government of Puducherry,
Rep. By its Secretary,
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G.K.ILANTHIRAIYAN, J.

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