



W.A.No.117 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2024

CORAM :

**THE HON'BLE MR.SANJAY V.GANGAPURWALA,
CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

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The Principal Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Fort St. George,
Chennai - 600 005.

.. Appellant

Versus

1. T.Ambikapathi
2. The Director,
Directorate of Town Panchayat,
Kuralagam, Chennai - 600 108.
3. The District Collector,
Kancheepuram District,
Kancheepuram.
4. The Commissioner,
Maraimalai Nagar Town Panchayat,
Maraimalai Nagar - 603 209.
5. The Sub Registrar,
Chengalpattu - II,
Chengalpattu.



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6. The Director,
Town and Country Planning,
13, Varadarajar Street,
Vedachalam Nagar,
Chengalpattu HO,
Chengalpattu - 603 001.

.. Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent to set aside the order, dated 30.01.2023 made in W.P.No.29722 of 2022 and allow the Writ Appeal.

For Appellant : Mr.J.Ravindran,
Additional Advocate General,
Assisted by Mr.A.Selvendran,
Special Government Pleader

For Respondents : Mr.L.Dhamodharan, for R1

: Mr.C.Kathiravan,
Special Government Pleader,
for RR-2, 3, 5 and 6

: Mr.K.Tippu Sultan,
Senior Counsel for R4

JUDGMENT

(Judgment made by the Hon'ble Chief Justice)

Heard Mr.J.Ravindran, learned Additional Advocate General assisted by Mr.A.Selvendran, learned Special Government Pleader for the appellant; Mr.L.Dhamodharan, learned Counsel for the first respondent; Mr.C.Kathiravan, learned Special Government Pleader for the respondent



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Nos.2, 3, 5 and 6 and Mr.K.Tippu Sultan, learned Senior Counsel for the fourth respondent.

2. The first respondent has filed the Writ Petition challenging the order negating the request of the petitioner for cancellation of the gift deed.

3. It appears that in contemplation of the lay out being sanctioned, the petitioner executed a registered gift deed on 23.07.1997 in respect of the land admeasuring 15,824 Sq.ft comprised in S.No.375/2B2, Ninakarai village, Chengalpattu taluk, Kancheepuram district.

4. The learned Single Judge allowed the Writ Petition.

5. Mr.J.Ravindran, the learned Additional Advocate General submits that the learned Single Judge did not consider G.O.M.S.No.730 of 1976, dated 14.04.1976 in its correct perspective. Once gift deed is executed and transferred to the Municipal Council, it becomes private property of the Municipal Council. There is no provision to cancel the said gift deed. The disposal of the properties, received by way of a gift deed, is governed by the Rules framed under the Tamil Nadu District Municipalities Act, 1920.



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According to him, though the lay out is not sanctioned, once the gift deed has been executed, the property has become private property of the Municipal Council and now, it cannot be returned back. The learned Additional Advocate General further submits that the only remedy available to the petitioner is to approach Civil Court and he placed reliance upon the order of the Full Bench of this Court in W.P.(MD).No.6889 of 2020 with connected Writ Petitions decided under the order on 02.09.2022.

6. The learned Counsel for the first respondent / petitioner submits that the lay out was never approved, as such, the gift deed executed in respect of open space or road cannot vest with the Municipal Council or the Government.

7. We have heard the submissions and we have also perused the judgment of the learned Single Judge.

8. It is not disputed that the gift deed has been executed by the petitioner on 23.07.1997 in respect of the area as detailed in the said gift deed. The said gift deed was in contemplation of the lay out being sanctioned. It is also not disputed that the lay out was never sanctioned nor



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it was, at any material point of time, applied. In view of that, it was not open for the municipality to get the gift deed executed.

9. The gift deed executed for such a property, in fact, would be non-est and transfer of a property without consideration is void ab initio. It is only if the lay out is sanctioned, the area reserved for open space, parks, roads are required to be transferred by way of gift deed in accordance with the rules and regulations governing it. In absence of any sanctioned lay out, the transfer would be without consideration and void. The Government Order, relied upon by the learned Additional Advocate General, has been rightly negated by the learned Single Judge in the said impugned order.

10. It is not the case of disputed questions of fact so as to drive the petitioner to Civil Court.

11. In the light of the above, no error is committed by the learned Single Judge while passing the impugned order. This Writ Appeal stands dismissed. There shall be no order as to costs. The cancellation charges for the gift deed shall be borne by the petitioner. Consequently, C.M.P.No.664 of 2024 is closed.



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(S.V.G., CJ.)

(D.B.C., J.)

22.01.2024

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs

To

1. The Director,
Directorate of Town Panchayat,
Kuralagam, Chennai - 600 108.
2. The District Collector,
Kancheepuram District,
Kancheepuram.
3. The Commissioner,
Maraimalai Nagar Town Panchayat,
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**THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.**

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