



W.A.No.395 of 2

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.A.No. 395 of 2024
and
C.M.P.No. 2658 of 2024

D.Nandhagopal

...Appellant

Vs.

1.The Inspector General of Registration,
Santhome, Mylapore,
Chennai - 600 005.

2.The Sub-Registrar,
Periyanayakanpalayam,
Coimbatore District.

3.The Narasimanayakanpalayam Municipality,
Rep. by its Executive Officer,
Narasimanayakanpalayam,
Coimbatore - 641 031.

...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Amended Letters Patent,
against the order dated 22.08.2023 made in W.P.No. 17460 of 2023.

For Appellant : Mr.R.T.Akash for Mr.Venkatesh M.

For Respondents : Mr.L.S.M.Hasan Faizal

Additional Govt. Pleader for R1 & R2



J U D G M E N T

(Judgment of the Court was made by R.SUBRAMANIAN, J.)
The appellant is aggrieved by the dismissal of his Writ Petition where

he challenged the check slip issued by the Sub-Registrar, Periyanaikanpalayam, refusing to register the cancellation deed submitted by him, cancelling the gift deed executed by him in respect of certain lands which were proposed as road and public space reservation in the lay out plan that was submitted by him to develop his land into residential plots.

2. The petitioner / appellant had applied for approval of a lay out by dividing his lands into plots, making approvals for roads and other space amenities as required under the development control rules. As per the conditions, the petitioner / appellant had also executed a gift deed in favour of the Municipality in anticipation of grant of permission on 01.09.2016. Ultimately, the request of the petitioner for grant of permission for approval of the proposed development was rejected by the Authority namely, Directorate of Town and Country Planning. Since the planning permission was rejected, the petitioner wanted to cancel the settlement deed executed by him in favour of the local Authority namely, Narasimmanaickenpalayam Municipality.

3. When the said cancellation deed was presented for registration, the



registration was refused on the ground that the lands belong to the Municipality and hence, unilateral cancellation of the gift deed cannot be accepted based on the circular issued by the Inspector General of Registration dated 27.04.2013. The learned single Judge has dismissed the Writ Petition holding that the petitioner has to approach the Civil Court for cancellation of the instrument. What is prohibited under law as per the Full Bench judgment of this Court in *M/s.Latif Estate Line India Ltd. Vs. Hadeeja Ammal* reported in *AIR 2011 Mad 66* is a unilateral cancellation of the instrument. A bilateral cancellation is not prohibited.

4. No doubt, the property vests in the Municipality on execution of the settlement deed but, that settlement deed was executed in anticipation of sanction of the lay out plan. Now that the sanction has been refused, the settlement document cannot be acted upon therefore, it is open to the parties to cancel the document bilaterally. The Registrar was perfectly justified in refusing registration, since it was a unilateral cancellation and the same is prohibited under law. This will not detain us from ensuring that the Government as well as the Municipal body does not unjustly enrich itself by taking the gift deed and retaining the land that belongs to a citizen even after refusing to sanction the lay out plan.



5. This Court, particularly, the writ Court exercising power under Article 226 cannot be a silent spectator to such unjust enrichment by the Government Agencies and local bodies. Hence, we are constrained to set aside the order of the learned single Judge as well as the refusal check slip issued by the Registrar. There will be a direction to the 3rd respondent to join execution of the cancellation deed and present it for registration along with the appellant. On such re-presentation, the Sub-Registrar concerned / the 2nd respondent will register the instrument within fifteen (15) days from the date of its presentation.

6. The Writ Appeal is allowed with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.M., J.) (R.S.V., J.)
23.07.2024

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Internet: Yes

Index: No

Speaking

Neutral Citation : No

To:-

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R.SUBRAMANIAN, J.
and
R.SAKTHIVEL, J.



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