



W.P(MD)No.16772 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.16772 of 2017 and
WMP(MD) No.13370 of 2017

AL.Chithaiah

... Petitioner

Vs

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.Block Development Officer(Panchayat),
Kamuthi Panchayat Union cum
Special Officer,
Pasumpon Village Panchayat,
Kamuthi Taluk,
Ramanathapuram District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records in pertaining to the impugned order of the second respondent in Na.Ka.No.A2/4090/2016, dated 15.06.2017 and quash the same as illegal and consequently direct the second respondent to issue no objection certificate for the proposed



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cancellation of the gift deed.

For Petitioner : Mr.T.Vadivelan
For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

The petitioner has gifted 25 ¼ cents of his land in S.No. 231/6, Thavasikurichi, Pasumpon Village in favour of the Pasumpon Village Panchayat through a conditional Gift Deed No.766 of 2005, dated 26.05.2005 for the purpose of constructing a community Hall by the Panchayat. The petitioner has filed this writ petition in the year 2017 that the Village Panchayat did not utilize the property gifted by the petitioner in the year 2005 for construction of the community hall for the past twelve years. In the meantime, the relative of the petitioner has constructed a community hall in another part of the petitioner's property. Therefore, the petitioner has submitted a representation to the respondent to revoke the gift deed and to reconvey the petitioner's land and the same was rejected by the second respondent by his order, dated 15.06.2017. Challenging



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the same, the petitioner has approached this Court in the year 2017.

2.The learned counsel for the petitioner by referring the orders of this Court in W.P(MD) No.3706 of 2022, dated 09.10.2023 submits that in the event, if the gifted land has not been utilized for the purpose for which it has been gifted, then the respondent ought to have returned the gifted land to the petitioner/donor. Though this writ petition is pending from the year 2017, the respondent has not filed any response as to whether they are intending to utilise the gifted land for the purpose for which, it has been gifted or whether they are taking steps to revoke the gift deed and return the property to the petitioner as requested by him. Hence, a suitable direction may be issued to the petitioner to return the property to the petitioner by invoking the gift deed, dated 26.05.2005.

3.The learned Additional Government Pleader appearing for the respondents submits that revocation of Gift deed can be made only as per Section 126 of the Transfer of Property Act and in the



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absence of any specific clause in the Gift deed, the donor cannot claim revocation of the property gifted by him. In order to substantiate his contentions, the learned Additional Government Pleader has relied on the Judgment of this Court rendered in S.A.No. 690 of 1997, dated 11.08.2022.

4.This Court considered the rival submissions made and also perused the materials placed on record.

5.The petitioner has gifted 25 $\frac{1}{4}$ cents of his land in S.No.231/6, Thavasikurichi, Pasumpon Village in favour of the Pasumpon Village Panchayat in the year 2005 through a Gift deed for the purpose of constructing a community hall at Pasumpon Village on a condition that it must be utilized as a Annadhana Koodam. The Panchayat has not taken any steps to construct a community hall from the year 2005.The petitioner has also made an arrangement for a community hall in the another portion of his property in the year 2016. Therefore, he has approached the second



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respondent for revocation of the Gift deed, which he has endowed for a specific purpose. The second respondent/Block Development officer by a memo, dated 15.06.2017 has rejected his request that the property which has been gifted cannot be returned by the Department.

6.This Court, while disposing of a writ petition in W.P(MD) No.3706 of 2022, dated 09.10.2023 has held that if a person has gifted the land for a specific purpose and that purpose was not accomplished, a direction was issued to the Sub Registrar to cancel the gift deed within a stipulated time. In another writ petition in ***W.P(MD)No.7678 of 2009***, reported in ***2019 SCC online MAD 1685***, in ***Veerukannian Vs.Chief Secretary of Government of Tamilnadu***, this Court has held that the land was gifted for construction of an additional School building, however, the building was not constructed and therefore, a direction was issued for re-conveyance of the land by cancelling the Gift deed. The Division Bench of this Court in W.A.1448 of 2017, dated 13.11.2017 has held



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as follows:-

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8. In *Tahsildar Pollachi and another vs. P.Bagyalakshmi*, judgment dated 30 October 2017, in W.A.No.836 of 2017, a similar issue regarding gift of land for constructing school building and the claim for return of the land on the ground of non utilization came up for consideration before this Court. While directing the Government to consider the request, this Court made the following observation :-

a) The gift of the land was given for a specific purpose. The construction of school building in the name of the donor was the sole object of the gift. There is a marked difference between acquisition of land and the demand for reconveyance later on account of the failure to utilise the land for the purpose for which it was acquired and a gift of land for a particular public purpose and claim made by the donor for return of land on the ground that the land was not used for the particular purpose for which it was gifted. In case, it is a compulsory acquisition for a public purpose, the scope of reconveyance under Section 48-B is very limited. The Government must be satisfied that the land was not used for the specific purpose and it is not necessary for any other public purpose. Then only, the question of re-conveyance would arise. However, in a case of this nature, when the purpose of gift failed to materialise, the donor would be justified in claiming the land back. There is no right for re-



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conveyance under Section 48-B of the Land Acquisition Act, 1894. There is only a right to consider the request for re-conveyance. However, that is not the case in case it is a conditional gift for construction of school building, hospital, etc., and on account of subsequent events or efflux of time, the object is no more in existence. In case a request is made by the donor on account of the non-accomplishment of the purpose for which gift of land was given, the Government must consider such request giving due weight to the wishes of the donor while executing the gift deed donating the land for the purpose indicated therein.

b) Similar issue came up for adjudication before the Division Bench of the Madurai Bench of this Court in M.Thiyagarajan V. The State of Tamil Nadu and others [2017-2-Writ L.R. 349]. The donors gifted about 25 acres of land for establishing Karur Government Medical College at Kuppuchipalayam Village. The Government accepted the gift and issued an order sanctioning funds for construction of medical college. The public works department awarded contract to a local contractor for construction. Subsequent inspection of land by the Director of Medical Education found that the land was not fit for establishing a medical college on account of its locational disadvantages. The Government therefore decided to take another land owned by



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a Religious institution in exchange of the gifted land. In the mean while, Karur Municipality, resolved to allot 20 acres of its prime land in Karur Town for construction and establishment of Government Medical College. While so, the donors, the contractor and a local politician filed writ petitions before the Madurai Bench to direct the Government to establish the medical college at the land gifted by the donor. The Writ Court granted interim stay and restrained the Government from changing the location. Another writ petition was filed in public interest to accept the municipal land. The Division Bench following the judgment of the Hon'ble Supreme Court in Abraham T.J. V. The State of Karnataka [2017 (7) Scale 641] held that it is the prerogative of the Government to select the land for establishing medical college and there is no legal right to claim that only the land gifted by the donor should be used for the public purpose."

7.In view of the ratio laid down by this Court as stated supra, this writ petition is disposed of with a direction to the second respondent/the Block Development Officer, Pasumpon Village Panchayat shall ensure that the property gifted by the petitioner is utilized for the purpose, for which, it has been gifted, by constructing a community hall (Annadhana Koodam) within a period



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of two years from the date of receipt of a copy of this order. In the event, if it is not constructed within the time stipulated by this Court, the respondents are not entitled to utilize the property for some other purpose other than the purpose, for which, it has been gifted. In such case, instead of keeping the property idle, the respondent shall revoke the gift deed and return the property to the petitioner. No costs.

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NCC: Yes/No

Index:Yes/No

Internet:Yes

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To

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.Block Development Officer(Panchayat),
Kamuthi Panchayat Union cum
Special Officer,
Pasumpon Village Panchayat,
Kamuthi Taluk,
Ramanathapuram District.



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B.PUGALENDHI, J.

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