



WEB COPY



W.A.No.2287 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A.No. 2287 of 2024
and
C.M.P.No.16095 of 2024

A.Sivasankari

...Appellant

Vs.

1.Noorul Murshitha

2.The Inspector General of Registration,
Office of the I.G. of Registration,
No.100, Santhome High Road,
Chennai – 600 028.

3.The District Registrar,
O/o. The District Registrar,
Chidambaram,
Cuddalore District.

4.The Sub-Registrar,
O/o. The Sub-Registrar,
Kattumannarkoil Town & Taluk,
Cuddalore District.

5.M.Safiullah Sahib

...Respondents

PRAYER: The Writ Appeal filed under Clause 15 of the Letters Patent praying to set aside the order dated 17.04.2024 passed in W.P.No.5934 of 2018.



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For Appellant : Mr.C.Jagadish
For Respondents : Mr.G.Balamanikandan for R1
Mr.S.Senthil Murugan, Spl.G.P for R2

J U D G M E N T

(Order of the Court was made by S.M.SUBRAMANIAM, J.)

Under assail is the writ order dated 17.04.2024 made in W.P.No.5934 of 2018.

2. The 5th respondent in the Writ Petition is appellant before this Court. The 1st respondent filed a writ proceeding to set aside the cancellation deed dated 30.08.2007 registered as Doc.No.1755/2007 executed by the 4th respondent cancelling the settlement deed dated 07.05.1986. Consequential direction has been sought for to cancel the sale deed dated 01.11.2016 bearing Doc.No.2975/2016 executed by the 4th respondent.

3. The writ Court considered the issues and allowed the Writ Petition mainly on the ground that under Section 167 of the Mulla's Principles of Mohammedan Law, revocation of gifts are permissible and therefore cancellation deed was made in consonance with the grounds set out under Section of 167 of the Mulla's Principles of Mohammedan Law.



4. The writ Court further dealt with the issue relating to possession and

held that whether possession is taken or not and gift is valid or not has to be established by the 4th respondent only in the civil Court. While forming an opinion that the issue relating to possession is to be adjudicated before the civil Court, allowing the Writ Petition would cause prejudice to the parties to establish their respective rights before the competent civil Court of law. On the one hand the writ Court allowed the Writ Petition on the ground that power to revocation of gifts is contemplated under Mulla's Principles of Mohammedan Law and on the other hand, writ Court held that 4th respondent has to establish possession before the civil Court.

5. In this context, Section 167(1) enumerates that *“a gift may be revoked by the donor at any time before delivery of possession”*. When delivery of possession is a pre-condition contemplated under Law and subject matter of evidence to be taken, it would be un-necessary for the writ Court to allow the Writ Petition by considering the power to revoke the gift and relegating 4th respondent to approach the civil Court to establish possession.

6. The relief granted is contradictory and in such circumstances, it would be appropriate to relegate the parties to approach the civil Court to establish possession at the first instance to exercise powers conferred under Section 167 and ascertain validity of the cancellation deed, if any, executed. At



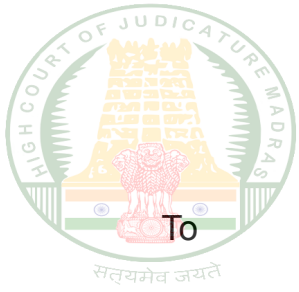
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the outset, it involves the civil right and such rights are to be established based on the documents and evidences available on record. Such an exercise cannot be undertaken by High Court in exercise of powers of judicial review. In the event of any finding based on any of the documents, it would result in mis-carriage of justice and infringe the property right of the persons. Thus, parties have to approach the civil Court to establish their case based on documents and evidences including oral evidences.

7. With these observations, the writ order dated 17.04.2024 made in W.P.No.5934 of 2018 is set aside and the Writ Appeal stands **allowed**. No costs. Consequently, the connected miscellaneous petition is closed.

(S.M.S., J.) (M.S.Q., J.)
09.10.2025

dsa
Index :Yes/No
Neutral Citation :Yes/No
Speaking/Non-speaking order



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