



W.P(MD)No.12751 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.07.2025

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CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.12751 of 2024

1. S.Gopal Appasamy
2. Rajeshwari
3. S.Rajagopal
4. Varadaraja Perumal

...Petitioners

Vs.

1.The Secretary to the Government of Tamilnadu,
Department of School Education,
Fort. St. George,
Chennai - 600 009.

2.The Director,
Department of School Education,
17, College Road,
Nungambakkam,
Chennai.

3.The District Collector,
Thoothukudi District,
Thoothukudi.

4.The Chief Educational Officer,
Thoothukudi,
Thoothukudi District.

5.The District Educational Officer,
Kovilpatti,
Thoothukudi District.

6.The Panchayat President
Ilaiyarasanenthal Village Panchayat,
Kovilpatti Taluk, Thoothukudi District.

... Respondents



W.P(MD)No.12751 of 2024

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents to re-convey the land measuring 3 Acres 10 cents in Survey No.541/1 situated to Southern side of Paruvakudi Road, Ilaiyaranenthal Village, Kovilpatti Taluk, Thoothukudi District, by cancelling the Gift Deed in Document No.1664 of 1961, dated 26.08.1961, on the file of the Sub Registrar, Kovilpatti, Thoothukudi District.

(Prayer amended vide Court order dated 26.06.2025 in WMP(MD)No.12696 of 2024 in WP(MD)No.12751 of 2024)

For Petitioners	:Mr.T.Veerakumar
For R1 to R5	:Mr.P.T.Thiraviam Government Advocate
For R6	:Mr. S.Gurunathan

ORDER

The present Writ Petition has been filed for the issuance of a Writ of Mandamus, to direct the respondents to re-convey the land measuring 3 Acres 10 cents in Survey No.541/1 situated to Southern side of Paruvakudi Road, Ilaiyaranenthal Village, Kovilpatti Taluk, Thoothukudi District, by cancelling the gift deed in Document No.1664 of 1961, dated 26.08.1961, on the file of the Sub Registrar, Kovilpatti, Thoothukudi District.

2.Admittedly, the petitioners' mother, namely Seetha Lakshmi along with four petitioners have gifted the land in Survey No. 541/1 admeasuring 1 acre



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56 cents on the northern side and 3 acres 10 cents on the eastern side, situated in Kovilpatti Taluk, Thoothukudi District. After the said gift, the respondents have put up construction and are running a school in the 1 acre 56 cents. As far as the 3 acre 10 cents are concerned, the respondents have not put the land to use. The petitioner has filed the present writ petition to re-convey the same.

3.The contention of the petitioners is that the conditional gift was not carried out by the respondents. Therefore, the petitioners are is entitled to re-convey the same.

4. This Court has directed the Chief Educational Officer to appear before the Court and explain whether the school is intended to put up any construction in the remaining 3 acres 10 cents. Mr.T.Ganesh Moorthy, Chief Educational Officer, Thoothukudi, appeared before this Court.

5.The learned Government Advocate appearing for the respondents submitted that the said 3 acre 10 cents are put to use as a playground for the school children. But it is seen that the national highway is running through the two lands, that is in 1 acre 56 the school building is availanle cents and in 3 acre 10 cents the playground, in between the two, National Highways road is running. Therefore, safety issue arises due to the national highways running between the



lands for which the learned Government Pleader appearing for the respondents has submitted that the school is intended to put up a fence for the remaining 3 acres 10 cents and intended to put up a over bridge or subway between the school and the land. Therefore, the fact is clear that the school has put up construction and it is utilizing the place as playground.

6.The learned Counsel appearing for the petitioner relied on three judgments rendered by this Court in the case Umayal Ramanathan vs Secretary to the Government and another in W.A.No.1448 of 2017, reported in 2018 (1) CWC 896 wherein the Honorable Division Bench of this Court has held as under:

"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 :-

8. 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



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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-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.

9. 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 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

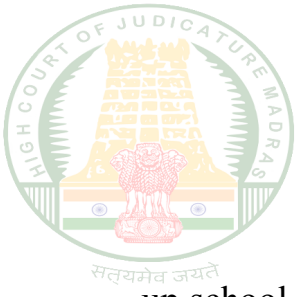


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donor. The Writ Court granted interim stay and restrained the Government from changing the location. Another writ petition was filed in public interest to accept the municipal land. The Division Bench following the judgment of the Hon'ble Supreme Court 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. While dismissing the writ petition filed by the donors and upholding the decision taken by the Government to accept the land offered by the Karur Municipality, the Division Bench directed the Government to return the gifted land to the donors on account of the subsequent events.

10. We are therefore of the view that interest of justice would be met by directing the Government to consider the request for return of land in the light of the background facts relating to the gift and the subsequent events indicated above."

Thus, the Honorable Division Bench of this Court has ordered for re-conveying the land. The Honorable Division Bench of this Court in W.A.(MD)No.461 of 2025, vide judgment, dated 05.03.2025, has directed to reconvey. In that case, gift was granted for digging a tank. Since the local authority has failed to carry out the conditional gift, the Honorable Division Bench of this Court has ordered for reconveyance. A Learned Single Judge in W.P.(MD)No.7678 of 2009, dated 02.01.2019, has held that the school failed to put up any construction for running the school, therefore, the Court ordered to re-convey the land.



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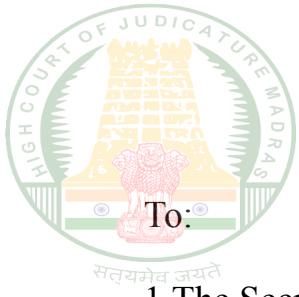
7.In the present case, the facts are different. The authorities have put up school and are running the school in the said 1 acre 56 cents of land. As far as the remaining land of 3 acres and 10 cents are concerned, the school is utilizing the same as playground. However, there are no proper safety measures. Therefore, this court is directing the respondents to take all the safety measures including to put up a subway or bridge. Except for this, conditional gift is satisfied. Therefore, the petitioners' claim cannot be entertained and the same is rejected.

8.With the above observations, this Writ Petition is dismissed. There shall be no order as to costs.

16.07.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes

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S.SRIMATHY, J.

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**ORDER MADE IN
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