



W.A(MD) No.1253 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 27.02.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

W.A(MD) No.1253 of 2022

and

C.M.P.(MD)No.9767 of 2022

D.S.Rajeswar

... Appellant / Writ Petitioner

Vs

**1.The Principal Secretary and
Commissioner of Land Administration,
Chepauk,
Chennai-600 005.**

**2.The Revenue Divisional Officer,
Sivagangai.**

**3.The Tahsildar,
Sivagangai Taluk,
Sivagangai District.**

4.D.S.K.Madurantai

5.R.Mageswaran

... Respondents / Writ Petitioners



W.A(MD) No.1253 of 2022

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order passed by this Court in W.P.(MD)No. 5708 of 2010, dated 09.09.2022.

For Appellants : Mr.V.Raghavachari
Senior Counsel
for Mr.K.R.Laxman

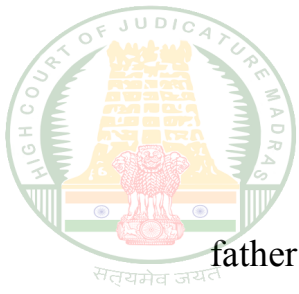
For Respondent : Mr.Veerakathiravan
Additional Advocate General III
for Mr.G.V.Vairam Santhosh
for R1 to R3

ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard both sides.

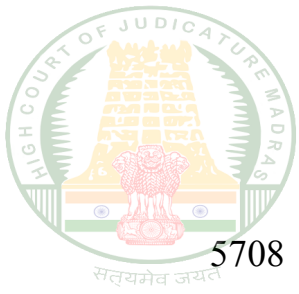
2. An extent of the land measuring 215.69 acres comprised in Survey No.63/1, Melavaniangudy Village, Sivagangai District belonged to late. Zamindar D.Duraisinga Raja of Sivagangai Zamin. He passed away in the year 1941. He was survived by two sons namely Shri.D.S.Shanmuga Raja and Shri.D.S.Subramania Raja. Shanmuga Raja executed gift deed dated 02.11.1950 donating the said property in favour of Rajah Duraisingam Memorial College, Sivagangai. This college was started by Shri.Shanmuga Raja in the year 1947 in the memory of his



W.A(MD) No.1253 of 2022

father. The present litigation has been instituted by Shri.D.S.Rajeswar, eldest son of Subramania Raja. According to him, Shanmuga Raja could have alienated only his half share in the property and not the entire 215.69 acres of land. He would also point out that the revenue record reflected the name of Raja of Sivagangai. He added that a pucca road separates the entire extent into two halves. Rajeswar's claim is that patta in respect of the remaining half should be given to him. He submitted that the gift deed was not acted upon in respect of Shanmuga Raja's half share. Though a partition suit was instituted by Subramania Raja (father of the appellant) against Shanmuga Raja, this property was not included in the suit schedule. Therefore, the eventual outcome of the said suit will have no bearing on the present case. He added that some time in the mid 1990's, patta in respect of the said land measuring 108.92 acres was given in favour of Madurantagi, granddaughter of Shanmuga Raja.

3. We need not go into the exact trajectory of the events. Suffice it to say that the request made by Rajeswar was negated by the Commissioner of Land Administration vide proceedings dated 10.02.2010. This was questioned by Rajeswar by filing W.P.(MD)No.



W.A(MD) No.1253 of 2022

5708 of 2010. The learned single Judge vide order dated 09.09.2022

dismissed the writ petition. The question that calls for consideration is whether the order of the learned single Judge has to be interfered with.

4. The learned senior counsel appearing for the appellant would strongly contend that when the subject property representing half share in Survey No.63/1 was not included in the partition suit schedule, the learned Judge erred in non-suiting him. We are not impressed with this argument. The gift was effected in 1950 by Shri.Shanmuga Raja. Though there is considerable force in the contention of the learned senior counsel appearing for the appellant that Shanmuga Raja could not have alienated the entire extent of 215.69 acres, the fact remains that Subramaniya Raja did not choose to question the gift made in favour of the college. It is quite possible that since the gift was made in favour of the college which was in the name of his father, Subramaniya Raja probably acquiesced with the gift effected by his brother. That is why, he did not include the subject property in the suit schedule. It is pertinent to note that Subramaniya Raja did not question the gift deed during his entire life time. Therefore, Rajeswar S/o.Subramaniya Raja cannot stake any claim based on the entries in the revenue record.



W.A(MD) No.1253 of 2022

WEB COPY

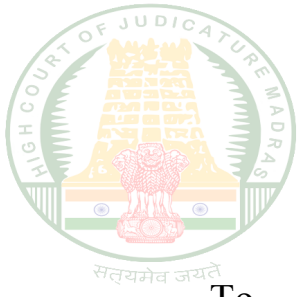
5. It is well settled that the entries in the revenue record will not extinguish title. Therefore, if at all, Rajeswar has any claim, the claim has to be made only against the college. Secondly, the gift was made way back in the year 1950. Rajeswar has chosen to raise the dispute almost half a century later and that too after the demise of the father Subramaniya Raja. It is also relevant to note that Rajeswar chose to file a partition suit in O.S.No.3 of 2004 before the District Judge, Sivagangai in which the petition mentioned property was also included. But then, the suit came to be dismissed for non-prosecution on 27.06.2012.

6. We are of the view that the order passed by the learned single Judge does not call for interference. The writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) (M.J.R., J.)
27.02.2025

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

5/7



W.A(MD) No.1253 of 2022

To
WEB COPY

- 1.The Principal Secretary and
Commissioner of Land Administration,
Chepauk,
Chennai-600 005.
- 2.The Revenue Divisional Officer,
Sivagangai.
- 3.The Tahsildar,
Sivagangai Taluk,
Sivagangai District.



WEB COPY



W.A(MD) No.1253 of 2022

G.R.SWAMINATHAN, J.

AND

M.JOTHIRAMAN, J.

rmi

W.A(MD) No.1253 of 2022

27.02.2025