



W.P.(MD)No.29888 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.01.2025**

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

W.P.(MD)No.29888 of 2024

and

W.M.P.(MD)No.25181 of 2024

1. T.R. Sethuraman

2. T.S.Geetha

... Petitioners

/Vs./

1. The District Registrar
South District Registrar Office,
Madurai, Madurai District.

2. The Joint Sub Registrar No.1
1st Joint Sub Registrar Office,
Madurai South Registration Office,
Madurai, Madurai District.

3 T.R.Rajendran

4 K.S.Sabitha

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue of Writ of Mandamus, to declare that the impugned cancellation of Gift Deed dated 13.01.2012 in Registration No.379/2012 on the file of 2nd respondent executed by deceased Mrs.T.R.Kamalam as null and void



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and consequently remove the same from reflecting in Encumbrance Certificate issued by the 2nd respondent with regard to property covered by impugned deed.

For Petitioners : Mr.R.Rajesh Saravanan

For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader for R1&2

ORDER

This writ petition has been filed seeking for a declaration, to declare the impugned cancellation of gift deed dated 13.01.2012 vide document No.379/2012 on the file of 2nd respondent executed by deceased Mrs.T.R.Kamalam, as null and void.

2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. The property comprised in Town Survey No.758/1 (Old survey No.122/2pt, 758/1pt – T.S.No.490/2), to an extent of 485.625 sq.ft., situated at Door No.16A/1, Sindhu Balakrishna Iyyer Land, Srinivasaperumal Kovil Street, Madurai, Madurai District, owned by the mother of the first petitioner, viz.,T.R.Kamalam. Subsequently, she had



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gifted the said property in favour of the first petitioner by the settlement deed dated 23.08.2010 vide document No.9022/2010. Thereafter, the first petitioner had settled the said property in favour of the second petitioner, by the settlement deed dated 23.11.2011 vide document No. 10901/2011. In turn, the second petitioner sold out the said property in favour of the fourth respondent by way of registered sale deed dated 23.05.2024 vide document No.2103/2024. Thereafter, on verification of encumbrance certificate, the petitioners came to understand that the gift deed executed in favour of the first petitioner by his mother was unilaterally cancelled by his mother by the cancellation of gift deed on 13.01.2012 vide document No.379/2012. Thereafter, she also died on 22.05.2013. She had only two sons, viz., the petitioner and the third respondent herein.

4. Though notice was issued to the third respondent, no one present, either by person or by a counsel. That apart, the cancellation of gift deed is not at all acted upon so far. In pursuant to the gift deed executed in favour of the first petitioner, there were several transactions in respect of the subject property. The unilateral cancellation cannot be sustained.



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5. The issue of unilateral cancellation has been dealt with by the Hon'ble Full Bench of this Court in the case of ***Sasikala V. Revenue Divisional Officer*** reported in ***2022 (5) C.T.C 257***, wherein in paragraph No.44, is held as follows:-

“44. From the discussions and conclusions we have reached above with reference to various provisions of Statutes and precedents, we reiterate the dictum of Hon'ble Supreme Court in Thota Ganga Laxmi and Ors. vs Government of Andhra Pradesh & Ors., reported in (2010) 15 SCC 207 and the Full Bench of this Court in Latif Estate Line India Ltd., case, reported in AIR 2011(Mad) 66 and inclined to follow the judgment of three member Bench of Hon'ble Supreme Court in Veena Singh's case reported in (2022) 7 SCC 1 and the judgment of two member Bench of Hon'ble Supreme Court in Asset Reconstruction Company (India) Ltd., case, reported in 2022 SCC On-line SC 544 for the following propositions:

(a) A sale deed or a deed of conveyance other than testamentary dispositions which is executed and registered cannot be unilaterally cancelled.

(b) Such unilateral cancellation of sale deed or a



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deed of conveyance is wholly void and non est and does not operate to execute, assign, limit or extinguish any right, title or interest in the property.

(c) Such unilateral cancellation of sale deed or deed of conveyance cannot be accepted for registration.

(d) The transferee or any one claiming under him or her need not approach the civil Court and a Writ Petition is maintainable to challenge or nullify the registration.

(e) However, an absolute deed of sale or deed of conveyance which is duly executed by the transferor may be cancelled by the Civil Court at the instance of transferor as contemplated under Section 31 of Specific Relief Act.

(f) As regards gift or settlement deed, a deed of revocation or cancellation is permissible only in a case which fall under Section 126 of Transfer of Property Act, and the Registering Authority can accept the deed of cancellation of gift for registration subject to the conditions specified in para 42 of this judgment.

(g) The legal principles above stated by us cannot be applied to cancellation of Wills or power of Attorney deed which are revocable and not coupled with interest.”



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6. Thus, it is clear that unilateral cancellation of sale deed or deed of conveyance cannot be accepted for registration. Insofar as the gift deed or settlement deed is concerned, the revocation or cancellation is permissible only in a case which fall under Section 126 of the Transfer of Property Act, and the registering authority can accept the deed of cancellation of gift for registration subject to the condition as stipulated under Section 126 of the Transfer of Property Act.

7. In view of the above, the unilateral cancellation of gift deed on 13.01.2012 vide document No.379/2012, cannot be sustained and it is declared as null and void. With the above observation, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

21.01.2025

Index : Yes / No
NCC : Yes / No
LS



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TO:-

1. The District Collector
Office of the District Collector,
Madurai District, Madurai.
2. The Madurai Corporation Commissioner,
Office of the Commissioner,
Madurai Corporation, Annamaligai,
Madurai District.
3. The Thasildar
Office of the Tahsildar, East Taluk,
Madurai District.
4. The Executive Engineer
Madurai Corporation, Annamaligai,
Madurai District.



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G.K.ILANTHIRAIYAN, J.

LS

Order made in
W.P.(MD)No.29888 of 2024

Dated:
21.01.2025