



W.P.(MD) No.994 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2026

CORAM

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.(MD)No.994 of 2026
and W.M.P.(MD)No.786 of 2026

Sivasubramani

... Petitioner

Vs

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Tahsildar,
Rathapuram Taluk,
Tirunelveli District.

3.The Block Development Officer,
Valliyur Union,
Rathapuram Taluk,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to stop the construction of the building in the Joint patta property in S.Nos.396/2 and 396/3 to an extent of 0.60.50 Hectors respectively situated in Karungulam Village, Rathapuram Taluk, Tirunelveli District in accordance with law.



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For Petitioner : Mr.V.G.Vallarasu Chezhiyan
For Respondents : Mr.K.Balasubramani,
Spl. Govt. Pleader for R1 & R2
Mr.S.Shanmugavel,
Addl. Govt. Pleader for R3

ORDER

This Writ Petition is filed seeking a Mandamus as against the respondents to stop the construction of the building in the Joint patta property in S.Nos.396/2 and 396/3 to an extent of 0.60.50 Hectors respectively situated in Karungulam Village, Rathapuram Taluk, Tirunelveli District in accordance with law.

2. By consent, this Writ Petition is taken up for final disposal at the admission stage itself.

3. The learned counsel appearing for the petitioner would submit that joint patta was issued in respect of the subject property in the name of Arumugakonar, Esakkimuthukonar, Vanniya Perumal, Shanmugathammal, Ponnammal and Arumugakonar. One of the owners



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viz, Esakkimuthkonar, who is the great grandfather of the petitioner, and his son Sudalaimani and his daughter Parvathi Ammal have executed a Gift Deed, gifting the subject property to the Director of Primary Health Centre for construction of a Primary Health Centre. The said Gift Deed was not at all registered. However, primary Health Centre was constructed and the same is running in the subject property. He would further submit that the petitioner has obtained joint patta in his name as well as the Director of Primary Health Centre in the year 2015. Under these circumstances, without subdividing the subject property, the respondents issued the work order for construction of Labour Ward and started construction adjacent to the building of the Primary Health Centre. He would further submit that the respondents have no authority to put up a construction, based on the unregistered Gift Deed. Therefore, the petitioner has filed this Writ Petition for the above said prayer.

4. The learned Special Government Pleader appearing for the respondents 1 and 2 would submit that though the document is termed as “Gift Deed”, after reading the content of the said Gift Deed dated 09.12.1988, it could be construed as “Will”. Therefore, certainly the respondents will have authority to construct a building. Accordingly,



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they have constructed a Primary Health Centre in the subject property and now adjacent to the said building, they are intended to put up a Labour Ward and work order has been issued by the first respondent and construction has also been started. He would further submit that the entire land in S.No.396/2 and 396/3 have already been devolved upon the respondents by virtue of Gift Deed dated 09.12.1988. Merely because it was termed as “Gift Deed”, it cannot be construed as “Gift Deed” and it could be construed as “Will”. The unregistered Will was executed by the petitioner's great grandfather and his son and his daughter for the entire extent of the subject property and apart from the said land, no other land was available. Therefore, the petitioner has no right over the subject properties. Without having any right over the subject properties, the petitioner has filed this Writ Petition. Therefore, he seeks dismissal of the Writ Petition.

5. Considering the facts and circumstances of the case, this Court is of the view that as rightly contended by the learned Special Government Pleader appearing for the respondents 1 and 2, though the deed has been termed as “Gift Deed”, it could be construed as a “Will”. Based on the said unregistered Will, the respondents have constructed a



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Primary Health Centre in the subject property and now they are constructing a Labour Ward adjacent to the building of the Primary Health Centre. Under these circumstances, the petitioner approached this Court and seeks appropriate orders.

6. A perusal of the unregistered Will executed by the petitioner's great grandfather, it clearly shows that the entire extent of the land in S.Nos.396/2 and 396/3 have already been gifted in favour of the Director of Primary Health Centre. Though the said deed has been termed as “Gift Deed”, on a reading of the said content of the Gift Deed, it is seen that he expressed his willingness and therefore, it could be construed as a “Will”. The petitioner has obtained joint patta in his name as well as the Director of Primary Health Centre in the year 2015. However the said Director of Primary Health Centre has not been added as party to this Writ Petition. If at all the petitioner is having any right, it is upto him to approach the civil Court and this Court cannot give any audience to that. Therefore, I do not find any merit in this Writ Petition and the same is liable to be dismissed.



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7. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
NCC : Yes/No



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KRISHNAN RAMASAMY, J.

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