

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2015

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.12592 of 2014

And

M.P.Nos.1 and 2 of 2014

S.Sankarai

... Petitioner

Vs.

1.Sub Registrar,
Registration Department
Government of Tamil Nadu
NGS Enclave,
Manickam Salai,
Kundrathur,
Chennai 600 069.

2.M.Palayam

... Respondents

Prayer: Petition filed under section 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records on the file of the first respondent relating to the registration of impugned deed of unilateral cancellation of settlement dated 03.04.2014, bearing Document No.5260 of 2014, registered by the first respondent and quash the same as illegal, arbitrary and non est in law and consequently direct the first respondent to delete the entry of unilateral Cancellation of Settlement dated 03.04.2014, bearing Document No.5260 of 2014 in the encumbrance register maintained in the first respondent office.

For Petitioner : Mr.B.Vijay

For Respondents : Mr.S.Gunasekaran for R1
Government Advocate
Ms.G.Devi for R2

O R D E R

Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the first respondent and the learned counsel appearing for the second respondent.

2.The case of the petitioner is that her settlement deed is unilaterally cancelled and such cancellation could not have been accepted for registration by the first respondent.

3.Infact, this issue was considered in several cases and it is worthwhile to refer to the decision of this Court made in W.P.Nos.17182 of 2011 and 5046 of 2012 dated 07.06.2012, wherein the operative portion of the order reads as follows:

"41.The writ petitions are accordingly allowed. The registration deed of cancellation is ordered to be quashed. The subsequent settlement deed can be challenged by the petitioner in civil Court.

42.It is also made clear that this decision be not taken as upholding the gift deed executed in favour of the petitioner, It will be open to the respondents to challenge the gift deed in accordance with law in the Civil Court, if so advised. No costs."

and in the decision of this Court made in W.P.No.12620 of 2009 dated 20.09.2013, this Court in similar circumstances allowed the writ petition and quashed the document which was unilaterally cancelled the settlement deeds following the decision of the Hon'ble Full Bench of this Court in the case of Latif Estate Line India Limited versus Hadeeja Ammal (FB) (2011 (2) CTC 1), wherein the operative portion of the order reads as follows:

"5.In the light of the Full Bench Judgment referred to above, the Writ Petition is allowed. The connected Miscellaneous Petition is closed. No costs. However, it is made clear that the order passed herein could have no bearing to decide the issues that would arise in the suit filed by the second respondent in the competent Civil Court seeking to declare that the earliest Settlement Deed dated 16.07.2004 executed in favour of the petitioner herein, is sham and nominal."

4.Following the same, this writ petition is allowed as prayed for. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

1.The Sub Registrar,
Registration Department
Government of Tamil Nadu
NGS Enclave,
Manickam Salai,
Kundrathur,
Chennai 600 069.

1 CC TO Government Pleader, sr. 11859
1 cc to Mr.B. Vijay, Advocate, sr. 11921
1 cc to Mr.V. Raghupathi, Advocate, Sr. 12042

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