

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2016

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.21167 of 2015

And

M.P.No.1 of 2015

G.Kamalam ... Petitioner

Vs.

1 The Sub Registrar
Chennimalai SRO Office,
Chennimalai,
Erode District.

2 K.S.Gurusamy ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration that the registration of the Deed of Cancellation of Settlement dated 15.07.2011 executed by the 2nd respondent, registered as Doc. No.2702/2011 on the file of the 1st respondent is null and void, and not binding upon the petitioner's right conferred under the Settlement Deed dated 15.04.2003 registered as Doc. No.535/2003 on the file of the 1st respondent.

For Petitioner : Mr.N.Manokaran

For Respondents: Mr.R.A.S.Senthilvel for R1
Additional Government Pleader
Mr.T.Gobinath for R2

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner is the wife of the second respondent and according to her, her husband had settled some properties vide registered Settlement Deed dated 15.04.2003, bearing Document No.535/2003, registered on the file of the first respondent and all of a sudden on

15.07.2011 has unilaterally cancelled the Settlement Deed vide Cancellation Deed dated 15.07.2011, bearing Document No. 2702/2011, registered on the file of the first respondent and hence, came forward to file this writ petition.

3. Heard the submissions of Mr.N.Manokaran, learned counsel appearing for the petitioner, Mr.R.A.S.Senthilvel, learned Additional Government Pleader appearing for the first respondent and Mr.T.Gobinath, learned counsel appearing for the second respondent.

4. This Court has ordered notice of motion returnable by 20.08.2015, on 15.07.2015.

5. The second respondent/ husband of the petitioner has filed counter affidavit and it relevant to extract paragraph nos.4 and 5 of the counter affidavit hereunder:

"4. I submit that I have no intention to cancel the settlement deed executed in favour of my wife/ petitioner herein. I submit that due to the quarrel and sheer anger and emotion, without forecasting the family welfare I cancelled the settlement deed dated 15.04.2003 on the file of the 1st respondent and the 1st respondent also registered as Doc.No.2702 of 2011 on 15.07.2011. I submit that considering the welfare of the family and on the advise of the well-wishers now I and my wife are united and leading a very happy life. I submit that I have decided to settle the property ignoring the cancellation deed which is under challenge in this writ petition. I submit that I have taken this decision to ignore the cancellation deed dated 15.07.2011 registered as Doc.No.2702 of 2011 on the file of the 1st respondent and whole heartedly willing to settle the property by affirming the settlement deed dated 15.04.2003 registered as Doc. No.535 of 2003 on the file of the 1st respondent.

5. I submit that other mode of proceedings shall take long time to settle the properties in favour of my wife/ petitioner herein. Hence in the

interest of justice the cancellation of settlement deed dated 15.07.2011 registered as Doc.No.2702 of 2011 on the file of the 1st respondent which is under challenge may be declared as null and void on the one hand and on the other hand the validity of the settlement Deed dated 15.04.2003, registered as Doc. No.535 of 2003 on the file of the 1st respondent may be affirmed by allowing this writ petition."

6.In the light of the stand taken by the second respondent, the writ petition is allowed and the Deed of Cancellation of Settlement dated 15.07.2011, registered as Document No.2702 of 2011 on the file of the first respondent is declared as null and void and the validity of the Settlement Deed dated 15.04.2003, registered as Document No.535 of 2003 on the file of the first respondent is affirmed. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Sub Registrar
Chennimalai SRO Office,
Chennimalai,
Erode District.

1 cc to Mr.T.Gobinath, Advocate, sr.35580
1 cc to Mr.N.Manokaran, Advocate, sr.35576
1 cc to Government Pleader, sr.35535

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ak co, kra 13.07.2016