

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2017

CORAM

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P. No. 11475 of 2015

M. Velmurugan

... Petitioner

Versus

1. The Sub Registrar
Office of the Sub Registrar
Thiruvarur
Thiruvarur District - 610 001

2. Veerammal ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration declaring that the deed of cancellation of settlement deed executed by the second respondent dated 19.09.2014 registered as document No. 6064 of 2014 on the file of the first respondent by cancelling the settlement deed dated 13.08.2012 executed by the second respondent in favour of the petitioner registered as document No. 4059 of 2012 on the file of the first respondent is null and void and not binding upon the petitioner's possession over the property bearing Survey No.62/1A1 measuring an extent of 297 square meter and Survey No.62/1A2 measuring an extent of 350 square meter and 1/4 share of total measuring an extent of 647 square meter in Peruntharkkudi Village, Kudavasal Taluk, Thiruvarur District, Thiruvarur Sub-Registration District, Nagapattinam Registration District and coming within the limits of Kodarachery Panchayat Union.

For Petitioner : Mr. R. Chakravarthy
For Respondents : Mr. S. Rajeswaran
Special Government Pleader for R1
No appearance for R2

ORDER

The petitioner seeks for a Writ of Declaration to declare that the cancellation of settlement deed executed by the second respondent dated 19.03.2014 registered as document No. 6064 of 2014 on the file of the first respondent cancelling the settlement deed dated 13.08.2012 executed by the second

respondent in favour of the petitioner registered as document No. 4059 of 2012 on the file of the first respondent is null and void and not binding upon the petitioner's possession over the property morefully described in the settlement deed dated 13.08.2012.

2. The second respondent is the grand mother of the petitioner. She has executed a settlement deed dated 13.08.2012 which was registered as document No. 4059 of 2012 on the file of the first respondent by which the second respondent has settled certain properties in favour of the petitioner which are morefully described in the schedule of the settlement deed. After execution of the settlement deed, the petitioner has mutated the revenue records and obtained patta and Chitta in his name in respect of the property settled in his favour.

3. The grievance of the petitioner is that the second respondent, without any notice to the petitioner has unilaterally cancelled the settlement deed dated 13.08.2012 by executing a Cancellation of Settlement deed dated 13.08.2014 and such unilateral settlement is void.

4. Even though notice was served on the second respondent and her name printed in the cause list, none appears for the second respondent.

5. The issue involved in this writ petition is no longer res integra. It is well settled proposition of law that an Unilateral cancellation of a settlement or sale deed is null and void and it will not bind the settlee or purchaser as the case may be. In this context, the learned counsel for the petitioner relied on the decision of this Court in (L. Rajendran vs. L. Siddharthan) 2014 SCC Online Madras 12202 wheerein the Division Bench of this Court held as follows:-

"4. The settlement deed dated 26 February 2003 contains a clear statement to the effect that the settlor has already delivered possession of property to the settlee. In view of delivery of possession and mutation of records, a valid settlement has come into force. It was therefore not open to the settlor to cancel the document unilaterally. The learned Single Judge was therefore perfectly correct in setting aside the cancellation deed. We do not find any reason to take a different view in the matter."

6. In (B. Velthiyagarajan vs. The Joint Sub-Registrar, Madurai South, Office of the Sub-Registrar, Madurai and another) 2015 SCC Online Madras 5938 I had an occasion to consider similar question as regards the validity of an unilateral cancellation. In Para No.9 of the above decision, I held as follows:-

"9. It is evident from the above decision that an unilateral cancellation of registered sale deed or settlement deed is not valid in the eyes of law. In

the present case, if the second respondent, for any reasons, intends to cancel the settlement deed executed in favour of the petitioner, he has to approach the Civil Court to annul the settlement deed. Without resort to the Civil Court or without issuing any notice, the cancellation of the settlement deed is void. The impugned deed of cancellation deed dated 19.06.2014 executed by the second respondent is set aside and the writ petition stands allowed."

7. In this case also, according to the petitioner, after execution of the settlement deed in his favour, possession was handed over to him and he has also mutated the revenue records, patta and chitta were also issued in his favour. While so, the cancellation of settlement deed executed by the second respondent dated 19.03.2014 registered as document No. 6064 of 2014 on the file of the first respondent cancelling the settlement deed dated 13.08.2012 executed by the second respondent in favour of the petitioner registered as document No. 4059 of 2012 on the file of the first respondent is to be declared as null and void and not binding upon the petitioner.

8. In the result, the writ petition is allowed as prayed for. No costs. Consequently, connected miscellaneous petition in MP No. 1 of 2015 is closed.

Sd/-
Assistant Registrar

//True Copy//

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Sub Assistant Registrar

To

The Sub Registrar
Office of the Sub Registrar
Thiruvarur
Thiruvarur District - 610 001

+1cc to Mr.Chakkaravathy, Advocate, S.R.No.13714
+1cc to the Government Pleader, S.R.No.14266

W.P.No.11475 of 2015

NR(CO)
RS(24/04/2017)