



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2017

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN**W.P(MD) No.19855 of 2015**

V.Govindaraj

... Petitioner

Vs.

1.The Joint Sub Registrar-I,
Joint Sub Registrar Office,
Dindigul District.

2.M.Vengidusamy

3.B.Vijayalakshmi

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the impugned order dated 08.09.2010 in Document No.3225/2010 on the file of the first Respondent and quash the same.

(Prayer amended as per order in MP(MD) No.1 of 2015
dated 15.11.2017)

For Petitioner : Mr.R.Saravanakumar

For R1 : Mr.J.Gunaseelan Muthiah,
Government Advocate

For R2 & R3 : No Appearance

O R D E R

This writ petition has been filed, seeking to quash the impugned order dated 08.09.2010 in Document No.3225/2010 on the file of the first Respondent.

2. Heard the learned counsel appearing on either side.

3. It is the case of the petitioner that the second respondent is the father of the petitioner and the third respondent is the sister of the petitioner and they had executed a settlement deed in his favour vide Document No.1372/2010 dated 13.04.2010 and he enjoyed the property in a peaceful manner. While being so, the petitioner applied for Encumbrance Certificate for obtaining a Bank loan. All of a sudden, the second and third respondents have unilaterally cancelled the Settlement deed dated 13.04.2010, vide cancellation deed dated 08.09.2010, which constrained him to give a representation dated 09.10.2015 to the first respondent to revoke the settlement deed. Finding no action, the petitioner has come before this Court with the above said prayer.



4. Heard the learned Counsel appearing for the petitioner and the learned Government Advocate appearing for the first respondent. Despite the notice issued to the respondents 2 and 3 and their names also printed in the cause list, none appeared for them.

5. This Court, while dealing with the similar issue in the case of *Nambikkai Mary vs. 1.The Sub-Registrar-II, Sub-Registrar Office, Pattukkottai, Thanjavur District and another*, reported in (2015) 7 MLJ 10 [W.P.(MD)No.8570 of 2013, decided on 31.07.2015], has been pleased to observe as follows:

"..... 11. In the light of the dictum laid down by the Full Bench of this Court, I am of the considered view that the deed of cancellation of settlement dated 01.02.2013, which has been alleged to have unilaterally executed by the second respondent, does not create, assign, limit or extinguish any right, title or interest in the property and is of no effect and accordingly, it does not create any encumbrance in the property already transferred and therefore, it could not be accepted for registration. However, in the case on hand, the first respondent has registered the said cancellation deed, on the ground that there is no provisions in the Registration Act to reject or refuse to register any document. Even then, it has no force in law, in view of the above said decision of the Full Bench of this Court.

12. Therefore, this writ petition stands disposed of, holding that the impugned unilateral cancellation of settlement deed, dated 01.02.2013, in Document No.137/2013, registered with the first respondent, is bad in law. However, it is open to the second respondent to work out his remedy before the competent civil Court regarding the cancellation of the settlement deed dated 11.01.2013 and till such a decree is passed by the civil Court, the second respondent shall not press into service the alleged deed of cancellation of settlement dated 01.02.2013, as it has no force in law. Consequently, the connected miscellaneous petition is closed. No costs."

6. Considering the facts and circumstances of the case and also taking into account the fact that the matter is squarely covered by the earlier decision of this Court (cited supra), this writ petition is allowed and the impugned order of unilateral cancellation of settlement deed, dated 08.09.2010 registered by the first respondent in Document No.3225/2010 being bad in law, is set aside. However, it is open to the respondents 2 and 3 to work out their remedy before the competent civil Court regarding the



cancellation of the settlement deed dated 13.04.2010 and till such a decree is passed by the civil Court, the respondents 2 and 3 shall not press into service the alleged deed of cancellation of settlement dated 08.09.2010, as it has no force in law. No costs.

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Sd/-
Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To:

The Joint Sub Registrar-I,
Joint Sub Registrar Office,
Dindigul District.

+One cc to The Special Government Pleader, SR.No.87591

+One cc to Mr.R.Saravanakumar, Advocate, SR.No.87536

rm
RL/4C/3P/SKN/RSK/SAR1/12/12/2017

W.P (MD) No.19855 of 2015
(2/2)
15/11/2017