



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.[MD]No.156 of 2016
& C.M.P.(MD)No.745 of 2016

1.M.Rajesh @ Rajagopal
2.A.Chellapandian ... Appellants/Petitioners
Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Pattinapakkam,
Chennai - 600 028.

2.The District Registrar,
Madurai North,
Rajagambeeram,
Y.Othakadai,
Madurai District.

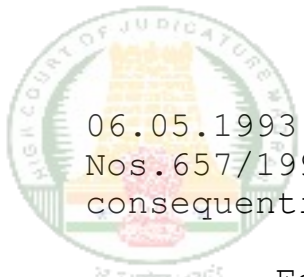
3.The Sub-Registrar,
Alanganallur Sub-Registrar Office,
T.Vadipatti Taluk,
Madurai District.

4.M.Sundararaman ... Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, against the order dated 14.12.2015, made in W.P.(MD) No.22375 of 2015.

Prayer in WP(MD)No.22375/2015:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records relating to the registration of the cancellation of settlement deed dated 05.05.1993 registered as document Nos.654/1993 and 655/1993 on the file of the 3rd respondent, and quash the same as illegal, ultra vires and unconstitutional and in consequence remove the entries in the records of the concerned registers and further in consequence, remove the entries of documents dated 5.5.1993 and



06.05.1993 styled as sale deeds registered as document Nos.657/1993 and 658/1993 respectively and for other consequential relief.

For Appellants : Mr.S.Ramesh
For R1 to R3 : Mr.V.Muruganantham
Additional Government Pleader

For R4 : No Appearance

JUDGMENT

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

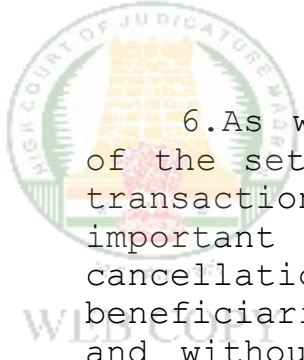
This appeal is directed against the order dated 14.12.2015, passed in W.P.(MD)No.22375 of 2015. In the said Writ Petition, the appellants sought for issuance of a Writ of Certiorarified Mandamus, to quash the unilateral cancellation of sale deed, dated 05.05.1993, registered as Document Nos.654/1993 and 655/1993, on the file of the third respondent and to remove the entries in respect of the documents concerned from the concerned Registers and consequential transactions.

2.The Writ Court held that the appellants have remained silent for a long period of time, especially, when the cancellation of settlement took place as early as on 05.05.1993 and registered on 10.05.1993, therefore, the Court was not inclined to grant any relief.

3.As against the said order, the appellants are before this Court.

4.Before examining the aspect as to whether the appellants should be non-suited for approaching the Court belatedly, we may note the legal position. It has been held in D.V.Loganathan Vs. The Sub-Registrar, Office of the Sub-Registrar, Pallavaram, Chennai and another reported in 2014 (3) CTC 113 that unilateral cancellation of settlement deed is without jurisdiction and liable to be set aside. In the case of Samiappan and others Vs. Rajamani reported in CDJ 2014 MHC 5730, some what similar issue arose for consideration and the Court held that the settlement deed cannot be set at naught unilaterally by one party. The party, who settled the property in favour of the first appellant is none other than his father, who had executed the settlement deeds, dated 07.10.1986 and 20.10.1986 and the first appellant was put in possession. Further, the appellants would point out that in the settlement deed, no power of cancellation was reserved by the father of the first appellant and however, the father chose to cancel the documents during 1993.

5.It appears that the fourth respondent herein has purchased the premises concerned thereafter. Though notice has been served on the fourth respondent and his name is printed in the cause list, none appears for the fourth respondent.



6.As we are fully convinced that the unilateral cancellation of the settlement deed is without jurisdiction, any consequential transaction pursuant to that are deemed to be void. What is important to note is that the Sub-Registrar, who registered the cancellation deed, ought to have issued notice to the beneficiaries under the settlement deed, namely, the appellants and without doing so, has unilaterally registered the documents ignoring the fact that the settlement deeds were acted upon and the cancellation deed was presented for registration after nearly 7 years after the date of settlements. This being contrary to the legal position, as stated above, requires to be interfered with.

7.In the light of the above, this Writ Appeal is allowed. The impugned order, dated 14.12.2015, is set aside and the Writ Petition is allowed and the unilateral cancellation of the settlement deed, registered as Document Nos.654/1993 and 655/1993, dated 05.05.1993, are set aside and the consequential transactions pursuant to the same are also held to be void and the third respondent/Sub-Registrar, Alanganallur Sub-Registrar Office, T.Vadipatti Taluk, Madurai District, is directed to remove the entries in his Registers. We make it clear that this order will not prevent the fourth respondent from approaching the Civil Court to establish his right over the property and if done so, the Civil Court, shall decide the matter uninfluenced by any observation in this judgment, as we have set at naught the cancellation of the settlement deed only on the ground that it is an unilateral cancellation and therefore, without jurisdiction. We make it clear that we have not adjudicated the title of the fourth respondent in this appeal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Inspector General of Registration,
No.100, Santhome High Road, Pattinapakkam, Chennai - 600 028.
- 2.The District Registrar, Madurai North,
Rajagambeeram, Y.Othakadai, Madurai District.
- 3.The Sub-Registrar,
Alanganallur Sub-Registrar Office, T.Vadipatti Taluk,
Madurai District.

+One cc to The Special Government Pleader, SR.No.53467

+One cc to Mr.V.Raghavachari, Advocate, SR.No.53349

smn2

RL/6C/3P/RSK/11.5.2017

JUDGMENT MADE IN

W.A.[MD]No.156 of 2016

20.04.2017