



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2017

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVAN**W.P(MD) No.16572 of 2017**

A.Sethu Ramayee

... Petitioner

-vs-

1. The Sub Registrar,
Bodinayakanur Sub Registration Office,
Theni District.

2. Periya Muniyandi

3. Chinna Muniyandi

R2 and R3 are impleaded vide court order dated 13.11.2017
in W.M.P(MD) No.13673/2017

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of impugned Unilateral cancellation of settlement deed dated 20.11.2000 in Document No.3411/2000 registered with the respondent, the Sub Registrar, Bodinayakanur, Theni District and quash the same.

For Petitioner	:	M/s.P.Kalaiyarasi Bharathi
For R1	:	Mr.M.Alagathevan Spl. Govt. Pleader
For R2 & R3	:	Mr.V.T.Prabakaran

ORDER

This writ petition has been filed, seeking to quash the impugned Unilateral cancellation of settlement deed dated 20.11.2000, registered in Doc.No.3411 of 2000 by the Sub Registrar, Bodinayakanur, Theni District.

2. The case of the petitioner is that her father had executed an unconditional and irrevocable settlement deed dated 30.09.1960 in favour of the mother of the petitioner, in which, it had been stated that after her mother's death, the properties would devolve upon the full enjoyment of the petitioner. However, her father, without any notice either to the petitioner or to her mother, had unilaterally cancelled the said settlement deed vide Doc.No.3411 of 2001, pursuant to which, her sons, namely, respondents 2 & 3 started interfering with the peaceful possession of the petitioner and the father of petitioner already expired on 03.03.2010. Aggrieved by the



said cancellation, the petitioner made a representation dated 03.08.2017 to the 1st respondent herein, which did not evoke any response so far. Having found no other efficacious remedy, the petitioner is before this Court with the above prayer

3. The learned counsel appearing for the petitioner would submit that such unilateral cancellation is invalid in the eye of law and the issue involved in this case is squarely covered by the earlier order passed by this Court in the case of **Nambikkai Mary vs. Sub-Registrar-II, Sub-Registrar Office, Pattukkottai and another, reported in (2015) 7 MLJ 10.**

4. Heard the learned counsel for the parties and perused the material documents available on record.

5. It is worthwhile to refer to the judgment rendered by this Court in the afore-cited case, wherein it has been held 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 or 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 of law...."

6. Considering the facts and circumstances of the case and also keeping in mind the earlier decision of this Court in the similar matter, this writ petition stands disposed of, holding that the impugned unilateral cancellation of settlement deed dated 20.11.2000, in Document No.3411 of 2000, registered with the first respondent, is bad in-law. However, it is open to the respondents 2 & 3 to work out their remedy, if any, before the competent civil Court regarding the cancellation of the settlement deed dated



20.11.2000 and till such a decree is passed by the civil Court, the respondents 2 & 3 shall not press into service the alleged deed of cancellation of settlement dated 20.11.2000, as it has no force of law. No costs.

WEB COPY

/True Copy/

Sd/-
Assistant Registrar(CO)

Sub Assistant Registrar

To:

The Sub Registrar,
Bodinayakanur Sub Registration Office,
Theni District.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 90548
+1cc to M/s.P.KALAIYARASI BHARATHI Advocate in SR. No. 90343
+2ccs to Mr.V.T.PRABAKARAN Advocate in SR. No.90321

AR
JS/JC/SAR.1/15.12.2017/3P-6C

W.P(MD) No.16572 of 2017
29.11.2017