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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

**W.P(MD)No.63 of 2016**

R.Krishnakumari

.. Petitioner

Vs.

The Sub Registrar,  
Office of the Sub-Registrar,  
Vadipatti, Madurai District.

.. Respondent

**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent to remove the entries pertaining to Doc Numbers : 1136/1999 (Cancellation of Settlement Deed) and 497/2003 (Mortgage Deed) from the encumbrance list of the respondent office.

For Petitioner : Mr.M.Thirunavukkarasu  
for Mr.V.B.Sundareshwar

For Respondent : Mr.J.Gunaseelan Muthaiah,  
Government Advocate.

### ORDER

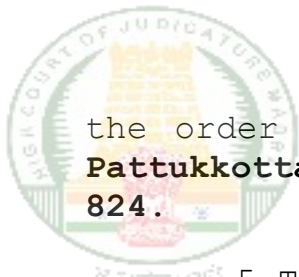
This writ petition is filed seeking a writ of Mandamus to direct the respondent to remove the entries pertaining to Document Nos.1136/1999 and 497/2003 with regard to Cancellation of Settlement Deed and Mortgage Deed respectively, from the encumbrance list of the respondent office.

2.Heard both sides.

3.The case of the petitioner is that he obtained the properties comprised in Survey Nos.199/1A3 and 199/4A2, Thaathampatty Village, Vadipatty Taluk, through a settlement deed executed by her maternal grandmother and she is in possession and enjoyment of the same. While so, one S.Meenakshisundaram, who is one of the sons of her maternal grandmother, filed civil suit before the civil forum in respect of the said property and the same ended in favour of the petitioner. According to the petitioner, now in the encumbrance certificate issued by the respondent office, there are some wrong entries with regard to unilateral cancellation of settlement deed and execution of mortgage deed by one S.Meenakshisundaram. Therefore, she made a representation to the respondent to remove the same. Since the same has not been considered so far, the petitioner is before this Court.

<https://hcservices.ebartrg.gov.in/hcservices/>

4.The learned counsel for the petitioner would also rely on



the order of this Court in **Nambikka Mary v. The Sub Registrar-II, Pattukkottai, Thanjavur District and another** reported in **2015(6) CTC 824**.

5.The learned Government Advocate appearing for the respondent would submit that the respondent has rightly made entries in the encumbrance certificate.

6.A perusal of the materials available on record would reveal that the case cited supra, squarely applies to the present case on hand and this Court in **Nambikka Mary v. The Sub Registrar-II, Pattukkottai, Thanjavur District and another** reported in **2015(6) CTC 824**, has held as follows:

"11. In the light of the dictum laid down by the Full Bench of this Court in **Latif Estate Line India Ltd. v. Hadeeja Ammal** reported in **2011 (2) CTC 1**, 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".

7.Following the same, this writ petition is disposed of, directing the respondent to consider the representation of the petitioner dated 09.12.2015 in line with the order of this Court in **Nambikka Mary v. The Sub Registrar-II, Pattukkottai, Thanjavur District and another** reported in **2015(6) CTC 824** and pass appropriate orders after affording due opportunity of hearing to the petitioner as well as any of the interested parties, within a period of four weeks from the date of receipt of a copy of this order.



8. The writ petition is disposed of as above. No costs.

Sd/-  
Assistant Registrar (AD-II)

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/True Copy/

Sub Assistant Registrar

To

The Sub Registrar,  
Office of the Sub-Registrar,  
Vadipatti, Madurai District.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 85392  
+1cc to Mr.M.THIRUNAVUKKARASU Advocate in SR. No. 84986

SMN

JS/SV.MMS/SAR.1/15.11.2017/3P-4C

**ORDER MADE IN**  
**W.P (MD) No. 63 of 2016**  
**02.11.2017**