

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2018

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.30903 of 2015  
and M.P.No.1 of 2015

M.K.Chandran

.. Petitioner

Vs.

1. The Sub Registrar,  
Periamet, Chennai - 600 003.

2. M.Nagarani Ammal

3. A.Gowri Bai

4. A.Jaishankar

5. M.K.Karthivelan

.. Respondents

PRAYER: Writ Petitions filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the Deed of Cancellation dated 14.07.2014 executed by the second respondent vide Document No.1662 of 2014 on the file of the first respondent and consequent thereto, to quash the Deed of Settlement dated 14.07.2014 executed by the second respondent in favour of the third respondent vide Document No.1663 of 2014 on the file of the first respondent and the Deed of Settlement dated 14.07.2014 executed by the third respondent in favour of the fourth respondent vide Document No.1728 of 2014 on the file of the first respondent and quash the same, and consequently direct the first respondent to remove the entries made as document No. 1662/2014, 1663/2014 and 1728/2014 in Book No. 1 in the office of the 1<sup>st</sup> Respondent.

For Petitioner : Mr.C.P.Sivamohan

For R1 : Mr.T.M.Pappiah  
Special Government Pleader

For R2 to R4 : Mr.A.Muniraj

For R5 : Mr.D.Kumaralingam

## O R D E R

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the Deed of Cancellation dated 14.07.2014 executed by the second respondent vide Document No.1662 of 2014 on the file of the first respondent and consequent thereto, to quash the Deed of Settlement dated 14.07.2014 executed by the second respondent in favour of the third respondent vide Document No.1663 of 2014 on the file of the first respondent and the Deed of Settlement dated 14.07.2014 executed by the third respondent in favour of the fourth respondent vide Document No.1728 of 2014 on the file of the first respondent.

2. Originally, the property belongs to one M.Rathinasabapathy Mudaliar, who died on 26.11.1961 intestate leaving behind him, his wife Rukmani Ammal and his son M.R.Sethuraman as his surviving legal heirs. After the death of said Rathinasabapathy, his wife and his son inherited the subject property. The said Rukmani Ammal died intestate and M.R.Sethuraman inherited the subject property. After M.R.Sethuraman died intestate leaving behind him, his wife M.Nagarani Ammal, who is the second respondent herein as his sole surviving legal heir, since no issues to M.R.Sethuraman and Nagarani Ammal out of the wedlock and M.Nagarani Ammal inherited the subject property. She has executed the Settlement Deed dated 20.05.2011 in favour of the petitioner, the third respondent and the fifth respondent. The Settlement Deed was accepted and acted upon by the settlee.

3. While so, the second respondent unilaterally cancelled the aforesaid Settlement Deed, which was registered as Document No.1089 of 2011 on 14.07.2014. Having cancelled the same, the second respondent had executed another Settlement Deed on the same day i.e. on 14.07.2014 in favour of the third respondent under Document No.1663 of 2014. The third respondent, in turn, settled the portion of the property in favour of the fourth respondent, who is her son by Document No.1728 of 2014. Now, the Writ Petition has been filed challenging the said unilateral cancellation done by the second respondent of the Document No.1089 of 2011.

4. Heard the learned counsel appearing for both parties and perused the materials available on record.

5. The unilateral cancellation of any settlement order has been deprecated by this Court in several judgment.

6. It is relevant to note that a Full Bench of this Court in Latif Estate Line India Ltd., Vs. Hadeeja Ammal [2011

(2) CTC 1], held that the unilateral cancellation of a deed cannot be done. The Inspector General of Registration, Chennai, has also issued a circular very recently in proceedings No.52666/C1/2018, dated 29.11.2018, wherein, considering all the judicial pronouncements on these aspects held that unilateral cancellation of such settlement deed without consent of Settlee is against public policy declared in Section 126 of the Transfer of Property Act, 1882. This Circular further states that in view of the legal position, it was classified that any Settlement Deed, which is sought to be unilaterally cancelled by the settler is presented for registration, registering officers shall not accept such unilateral cancellation deeds for registration and check slip shall be issued in this regard.

7. When the Settlement Deed is unconditional and irrevocable, the unilateral cancellation is being opposed to the public policy. In the event, the executant of the Settlement Deed is aggrieved by the same for having executed under coercion or undue influence, it is for him or her to approach the Civil Court to set aside the same and cannot unilaterally cancel it by way of deed of cancellation.

8. A Deed of Cancellation of a Settlement Deed unilaterally executed by the transferor does not create assign, limit or extinguish any right, title or interest in the property, which has already been transferred. Therefore, the first respondent also ought not to have entertained the registration of the Cancellation Deed. Immediately after the Settlement Deed is executed, the settlee/transferee becomes the absolute owner, as the property vests with the settlee and the same cannot be divested by the Cancellation Deed, even with consent of the parties. Perhaps, the proper way to re-convey the property is by a deed of conveyance by the transferee in favour of the transferor. Any such transfer by way of sale or settlement deed can be cancelled at the instance of the transferor only taking re-course to the Civil Court.

9. Thus, any unilateral cancellation issued in the knowledge of the siblings cannot be registered. Here in this case, the first respondent has registered the Document Nos.1662, 1663 and 1728 of 2014 dated 14.07.2014 and registered unilateral cancellation and subsequent settlement deeds without adverting to the above principles. Hence, the said unilateral cancellation has to be cancelled as prayed for in the petition.

10. Accordingly, the prayer sought for in this Writ Petition calling for the records relating to the Deed of Cancellation dated 14.07.2014 executed by the second respondent vide Document No.1662 of 2014 on the file of the first respondent and consequent thereto, the Deed of Settlement dated 14.07.2014 executed by the second respondent in favour of the

third respondent vide Document No.1663 of 2014 on the file of the first respondent and the Deed of Settlement dated 14.07.2014 executed by the third respondent in favour of the fourth respondent vide Document No.1728 of 2014 on the file of the first respondent are quashed and the present Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

s/d-  
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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To

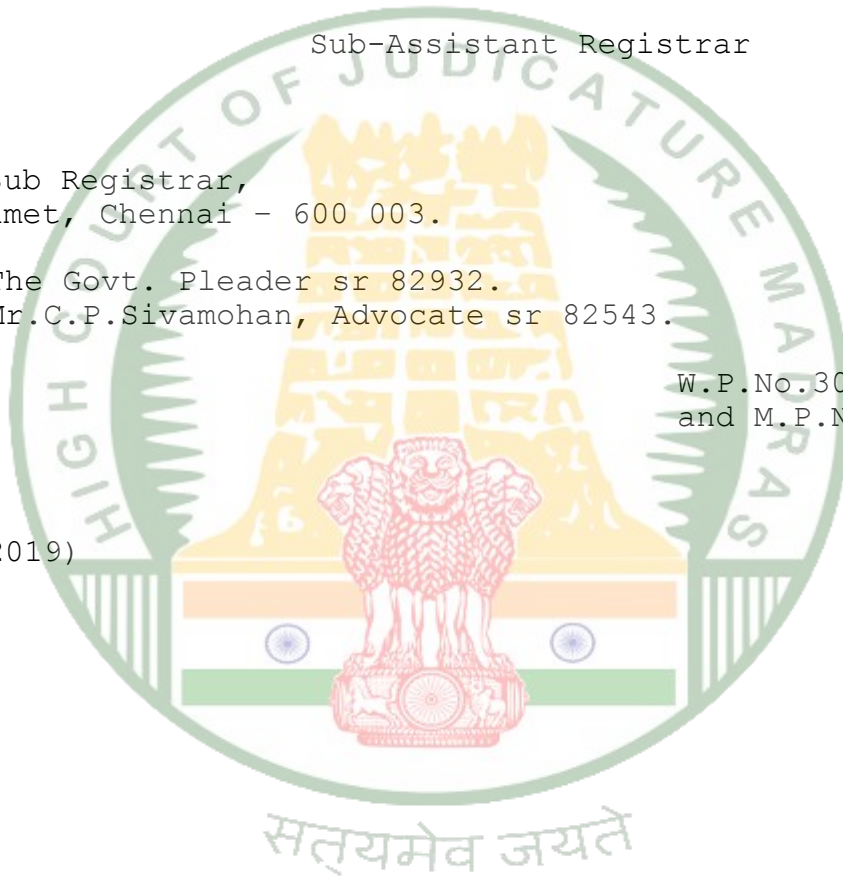
The Sub Registrar,  
Periamet, Chennai - 600 003.

+1 CC to The Govt. Pleader sr 82932.

+1 CC to Mr.C.P.Sivamohan, Advocate sr 82543.

W.P.No.30903 of 2015  
and M.P.No.1 of 2015

RGN(CO)  
SP(28/01/2019)



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