



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.07.2019

CORAM:

THE HON'BLE MR. JUSTICE P.D.AUDIKESSAVALU

W.P. No. 2820 of 2019
and
W.M.P. No. 3082 of 2019

M. Srinivasan

... Petitioner

-vs-

1. The Inspector General of Registration,
Office of the Inspector General of Registration,
Santhome High Road,
Mylapore,
Chennai - 600 004.

2. The District Registrar,
Office of the District Registrar,
Vellore District,
Vellore - 632 001.

3. The Joint Sub-Registrar-I,
Office of the Joint Sub-Registrar-I,
Vellore - 632 001.

4. Mrs. Gajalakshmi

5. Mrs. Visalakshi

6. Mrs. Santhalakshmi

7. Ms. Selvakumari

... Respondents

Prayer :- Writ Petition filed under Article 226 of Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned Cancellation Deed of Settlement dated 13.03.2014, registered as Document No. 3180 of 2014, on the file of the Third Respondent, executed by Mr. R. Adhimoolam and the consequential Settlement Deed dated 16.09.2014, registered as Document No. 10205 of 2014, on the file of the Third Respondent, executed by Mr. R. Adhimoolam in favour of the Fourth to Seventh Respondents and to quash the same and consequently direct the First to Third Respondents



herein to delete the entries reflecting the aforesaid impugned documents from the registers including encumbrance maintained by the Third Respondent with respect to the property comprised in Old Survey No. 428 (the same was then sub-divided as 8A.32 / 83, with New Survey No. 428 / 1 measuring an extent of 0.48 cents) in Sathuvachari Village, Vellore District.

For Petitioner : Mr. R. Gobinath
for M/s. Mcgan Law Firm

For Respondents: Mr. T. M. Pappiah for R1 to R3
Special Government Pleader

Mr. S. Vijay Anand for R4 to R7

O R D E R

Heard Mr. R. Gobinath of M/s. Mcgan Law Firm, Learned Counsel for the Petitioner, Mr. T. M. Pappiah, Learned Special Government Pleader appearing for the First to Third Respondents and Mr. S. Vijay Anand, Learned Counsel for the Fourth to Seventh Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. According to the Learned Counsel for the Petitioner, the property comprised in Old Survey No. 428 then sub-divided as 8A.32/83, with new Survey No. 428/1 in Sathuvachari Village, Vellore District measuring an extent of 0.48 cents had been purchased by Sale-Deed dated 12.12.1973 registered as Document No. 4101 of 1973 in the office of the Sub Registrar Vellore in the name of R. Adhimoolam. The said R. Adhimoolam had executed an irrevocable Settlement-Deed dated 23.01.1974 registered as Document No. 193 of 1974 on the file of the office of the Sub Registrar Vellore in favour of his brother, viz., R. Mohanam, who is the father of the Petitioner, and it is claimed that a cinema theatre has been constructed in that property. Long thereafter, the said R. Adhimoolam, cancelled the aforesaid irrevocable Settlement-Deed dated 23.01.1974 executed in favour of the said R. Mohanam by a deed of cancellation dated 13.03.2014 registered as Document No. 3180 of 2014 on the file of the Joint Sub-Registrar-II, Vellore and he had executed a Settlement-Deed dated 16.09.2014 registered as Document No.10205 of 2014 in the office of the Joint Sub-Registrar-I, Vellore in favour of the Fourth to Seventh Respondents, who are his wife and children. It is further informed that the said R. Mohanam and R. Adhimoolam have subsequently died. Though there has been litigation between the said R. Mohanam and the Petitioner on one side and the said R. Adhimoolam and the Fourth to Seventh Respondents on the other in the civil court relating to the possession of the property, it



is stated by the Learned Counsel for the Petitioner that the Petitioner had not sought for any relief in those proceedings before the civil court regarding the deed dated 13.03.2014 cancelling the Settlement-Deed dated 23.01.1974, and the Settlement-Deed dated 16.09.2014 executed by the said R. Adhimoolam in favour of the Fourth to Seventh Respondents. In this backdrop, the Writ Petition had been filed challenging the cancellation deed of settlement dated 13.03.2014 registered as Document No. 3180 of 2014 on the file of the Joint Sub-Registrar-I Vellore and the Settlement-Deed dated 16.09.2014 executed by the said R. Adhimoolam in favour of the Fourth to Seventh Respondents and for direction to the First to Third Respondents to delete the entries reflecting the aforesaid documents from the registers including the encumbrance maintained by the Third Respondent with respect of the aforesaid property.

3. It is strenuously urged by the Learned Counsel for the Petitioner relying on the decision of the Full Bench of this Court in M/s. Latif Estate Line India Ltd. -vs- Hadeeja Ammal [(2011) 2 CTC 1 (FB)], that the executant of a document of a conveyance cannot unilaterally cancel the same without the consent of the party in whose favour the document has been executed and resultantly, the registration of such deed of unilateral cancellation cannot be sustained in law as held by various decisions of this Court as reflected in the Division Benches of this Court in M.Rajesh @ Rajagopal -vs- The Inspector General of Registration (order dated 20.04.2017 in W.A.(MD) No. 156 of 2016) and in A. Sidiq Fatima -vs- A. Jaffar Hameed (order dated 11.10.2018 in W.A.(MD) No. 1099 of 2017).

4. Having regard to the aforesaid submissions made, it is evident that the Third Respondent has committed procedural impropriety in registering the deed dated 16.09.2014 as Document No. 3180 of 2014 unilaterally cancelling the Settlement-Deed dated 23.01.1974 registered as Document No. 193 of 1974 on the file of the Joint Sub Registrar-I, Vellore, which cannot be sustained. Accordingly, the registration of that deed of cancellation is set aside. It is left open to the Petitioner work out his remedies relating to the title to the property before the jurisdictional civil court in the manner recognized by law and that no view has been expressed by this Court on the correctness or entitlement of the rival claims of the parties in that regard.



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5. The Writ Petition is disposed on the aforesaid terms. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1. The Inspector General of Registration,
Office of the Inspector General of Registration,
Santhome High Road,
Mylapore,
Chennai - 600 004.
2. The District Registrar,
Office of the District Registrar,
Vellore District,
Vellore - 632 001.
3. The Joint Sub-Registrar-I,
Office of the Joint Sub-Registrar-I,
Vellore - 632 001.

+1cc to M/s. Mogan Law Firm, Advocate sr.56038
+1cc to Government Pleader SR.NO. 56886
+2cc to Mr.S.Vijay Anand, Advocate sr.56170

W.P. No. 2820 of 2019

nr 07/01/2020