

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.38899 of 2016

T.Mohan

.. Petitioner

-vs-

1. Sub-Registrar of Selaiyur,
Selaiyur Sub Registrar Office,
No.36, Bharathmatha Salai,
Ruby Mansion, East Tambaram,
Selaiyur, Chennai-600 073.

2. T.Subahash .. Respondents
[R2 - Impleaded vide order of Court dated 27.11.2018
made in W.M.P.No.31090 of 2018 in W.P.No.38899 of 2016]

Petition under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorarified Mandamus to call
for the records of the respondent and to quash the registration
of the deed of cancellation of settlement registered as document
No.12986 of 2014 dated 28.11.2014, executed by the mother of the
petitioner late T.Sulochana as illegal, void and against law.

For Petitioner : Mr.V.Veluchamy

For Respondents: R1 - Mr.P.P.Purushothaman,
Government Advocate

ORDER

Heard Mr.V.Veluchamy, learned counsel for the petitioner and
Mr.P.P.Purushothaman, learned Government Advocate appearing for
the 1st respondent.

2.With consent on either side, this writ petition is taken
up for final disposal.

3.This writ petition has been filed to quash the
registration of the deed of cancellation of settlement
registered as Document No.12986 of 2014, dated 28.11.2014,
executed by the petitioner's mother Tmt.T.Sulochana.

4.The remedy available to the petitioner is to approach the Civil Court in the light of the decision of the Hon'ble Full Bench of this Court in the case of Latif Estate Line India Ltd. vs. Hadeeja Ammal and others reported in 2011 (2) CTC 1.

5.The learned counsel for the petitioner submitted that the case on hand is not one such case where after the unilateral cancellation of the settlement deed, the property was settled on some other person and no civil proceedings are pending. This will not be a reason to get over the legal principles laid down by the Hon'ble Full Bench. It may be true that the petitioner's mother had executed a deed of settlement and cancelled the same and thereafter, died and the property, as on date, stands revived in the name of the petitioner's mother and it appears that the petitioner and his brother, the 2nd respondent, are the sole legal heirs. However, the whereabouts of the 2nd respondent is stated to be not known and the notice sent by this Court to the 2nd respondent has also returned with an endorsement "left". In any event, this Court cannot cancel the settlement deed registered, nor direct the Sub Registrar to delete the entry in the encumbrance.

6.With the above observation, this writ petition is disposed of by giving liberty to the petitioner to approach the competent Civil Court for cancellation of the settlement deed, which shall be dealt with in accordance with law. No costs.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

abr
To

Sub-Registrar of Selaiyur,
Selaiyur Sub Registrar Office,
No.36, Bharathmatha Salai,
Ruby Mansion, East Tambaram,
Selaiyur, Chennai-600 073.

+1 CC to Mr.V.Veluchamy, advocate sr 82549
+1 CC to Govt. Pleader sr 82297.

W.P.No.38899 of 2016

AK(CO)
SP(31/01/2020)