

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 28.11.2019

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition No.27283 of 2019

Athayee

.. Petitioner

/versus/

1.The Joint Registrar-I,
Kallakurichi,
Villupuram District

2.Sundarammal .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the order of the 1st respondent in Refusal Number RFL/1 dated 28.06.2019 quash the same consequently direct the 1st respondent to accept the petitioner's cancellation deed of settlement dated 28.06.2019 vide TP/66274555/2019.

For petitioner : Mr.S.N.Subramani
For Respondents : Mr.T.M.Pappiah, Spl GP for R1

O R D E R

The petitioner herein claiming to be a owner of 1 acre and 50 cents of land in S.No.299/5A at Ulaganakanthan Village in Kallakurichi executed a Will in favour of her son Palanivel and registered the same at the 1st respondent office. Later her son died on 16.06.2015. सत्यमेव जयते

2. On 10.12.2015, she has executed a settlement deed in favour of her daughter Sundarammal and her son-in-law Kandasamy. Now she wants to cancel the said settlement deed on the ground that her daughter and son-in-law got the settlement deed registered by misrepresentation. The 1st respondent has refused to register the unilateral cancellation deed. Hence, the present writ petition for issuance of Certiorarified Mandamus to quash the 1st respondent order of refusal dated 28.06.2019 and direct him to register the cancellation deed of settlement presented by the petitioner.

3. The learned Government Advocate appearing for the 1st respondent submits that duly registered settlement deed cannot be cancelled unilaterally. The 1st respondent has rightly refused the cancel deed and issued refusal slip dated 28.06.2019.

4. The learned counsel appearing for the 2nd respondent would submit that there is a civil suit pending on the file of the District Munsif Court, Kallakurichi in O.S.No.234 of 2017 to declare the settlement deed as fraudulent executed hence ultra virus and null and void. Since the matter has already been seized by the competent civil Court, the 1st respondent cannot entertain any document relating to conveyance of the subject property.

5. On perusing the affidavit filed by the petitioner Athayee and the plaint by Kalaselvi and two others against Athayee and her daughter Sundarammal, it is clear that the settlement deed executed by Athayee in favour of her daughter Sundarammal, is under challenge and the subject matter of the suit. Thus any further alienation regarding the said property shall always be subject to outcome of the civil suit. In view of the prohibition of registering. Unilateral cancellation of settlement deed, as well as the pendency of the civil suit disentitled the petitioner herein to maintain the present writ petition.

6. Hence, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

rpl
To

The Joint Registrar-I,
Kallakurichi,
Villupuram District

+1cc to Mr.S.Sathish , Advocate SR.No. 99617
+1cc to Mr.S.N.Subramani , Advocate SR.No. 95657
+1 cc to Government Pleader Sr.No. 100447

A.SK(24/01/2020)

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