

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:13.11.2019

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.31888 of 2019
and
W.M.P.Nos.32137 and 32142 of 2019

Mr.R.Kathiravan

.. Petitioner

/versus/

1.The Inspector General of Registration,
Santhome,
Chennai 600 004.

2.The Sub Registrar,
Office of the Sub Registrar,
Ponneri, Tiruvallur District 601 204.

3.Mr.N.Raghavan

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the registration of cancellation of settlement deed in Document No.8772 of 2015 dated 11.08.2015 registered at the office of the 2nd respondent and quash the same and consequently, direct the 1st and 2nd respondents to delete the entry of cancellation of settlement deed No.8772 of 2015 dated 11.08.2015 from the Encumbrance Certificate.

For Petitioner :Mr.S.Anandakumar

For Respondents:Mr.T.M.Pappiah, Spl.G.P
for R1 & R2

ORDER

By consent, the writ petition is taken up for final disposal at the admission stage itself.

2.Heard Mr.S.Anandakumar, learned counsel appearing for the petitioner and Mr.T.M.Pappiah, learned Special Government

Pleader, who takes notice for respondents 1 and 2.

3.The petitioner herein is the son of the 3rd respondent. The grievance of the petitioner is that his father/3rd respondent herein settled a property in his favour on 06.06.2014 through unconditional and irrevocable settlement deed. Subsequently, without his knowledge and consent, unilaterally he has cancelled the settlement deed on 11.08.2015. The 1st and 2nd respondents are not competent to register the unilateral cancellation of the settlement deed without consent of the settlee. Hence, the present writ petition is filed challenging the unilateral cancellation of the settlement deed.

4.The learned counsel appearing for the petitioner would submit that there is a circular of the Registration Department wherein it is stated that the unconditional and irrevocable settlement deed should not be cancelled unilaterally. Contrary to the Circular and the judgment reported in D.V.Loganathan v. The Sub Registrar, Office of the Sub Registrar, Pallavaram, Chennai and another (2014(1)CWC 814), the 2nd respondent has illegally cancelled the settlement deed.

5.The learned Special Government Pleader appearing for respondents 1 and 2 would submit that the Hon'ble Division Bench of this Court in P.Rukumani and others v. Amudhavalli and others in W.A.No.229 of 2018, dated 17.07.2019 has considered this issue at length and after referring the provision of law and the pronouncement of this Court and the Hon'ble Supreme Court has held that if any person is aggrieved by any unilateral cancellation of settlement, his remedy is to approach the Civil Court and he cannot challenge the deed by way of writ petition under Article 226 of the Constitution of India.

6.From the reading of the recitals in the settlement deed and the cancellation deed, this Court finds that earlier N.Raghavan-3rd respondent has settled the property in favour of his son measuring to an extent of 0.06.5 ares out of love and affection without any consideration. Subsequently, he has cancelled the same unilaterally stating that the petitioner has not vested with possession and the petitioner has failed to maintain his father/3rd respondent herein and the terms of the settlement deed was not given effect to. The facts asserted by the third respondent in the cancellation deed are all disputed question of fact, which has to be tested only in a competent civil Court and not by the High Court under Article 226 of the Constitution of India.

7.In the light of the Hon'ble Division Bench judgment cited above and the facts involved in this case, this Court finds that the Court cannot entertain this writ petition challenging the unilateral cancellation of the settlement deed effected by the third respondent assigning reasons. Therefore, the petitioner has to work out his remedy before the competent civil Court, in the light of the Division Bench Judgment.

8.Accordingly, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

ari

To:

1.The Inspector General of Registration,
Santhome,
Chennai 600 004.

2.The Sub Registrar,
Office of the Sub Registrar,
Ponneri, Tiruvallur District 601 204.

+1 cc to Mr.S.Anandakumar Advocate sr93930

+1 cc to the Government Pleader sr95710

W.P.No.31888 of 2019

सत्यमेव जयते

aa03/12/2019

WEB COPY