

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2019

CORAM :

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.23544 of 2017

Basker

... Petitioner

Vs.

1.The Sub Registrar, Ambattur,
Municipal Community Hall,
Gopalasamy Street,
Ram Nagar,
Chennai - 600 053. ... 1st Respondent

2.N.Kumar ... 2nd Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to quash the registration of cancellation of settlement deed dated 14.05.2015 registered as Doc.No.6893 of 2015, SRO, Ambattur on the file of the 1st respondent herein and subsequently direct the 1st respondent herein to delete the entry of the said cancellation deed from the Encumbrance Certificate.

For Petitioner : Mr.N.Anbazhagan
for M/s.J.Maheswari

For Respondents

R1 : Mr.T.M.Pappaiah
Special Government Pleader

R2 : No appearance

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O R D E R

The prayer in the writ petition is for issuance of a writ of certiorarified mandamus to quash registration of cancellation of settlement deed dated 14.05.2015 registered as Doc.No.6893 of 2015 on the file of the Sub Registrar, Ambattur, the 1st respondent herein.

2.Heard Mr.N.Anbazhagan, learned counsel appearing for Ms.J.Maheswari, learned counsel for the petitioner and

Mr.T.M.Pappaiah, learned Special Government Pleader, appearing for the 1st respondent.

3.The admitted facts are that, vacant land bearing Plot No.510, 'Saraswathy Nagar', measuring an extent of one ground or thereabouts (2400 sq.ft), comprised in R.S.No.527/24 (part) of Thirumullaivoil Village, was owned by the 2nd respondent, father of the petitioner herein. Out of the same, an extent of 1200 sq.ft had been settled in favour of the petitioner vide settlement deed dated 27.12.2013 registered as Doc.No.15401 of 2013 on the file of the 1st respondent. All original title deeds had been handed over to the petitioner and the petitioner is now in uninterrupted possession and enjoyment of the property. While this is so, the 2nd respondent, unilaterally and without the knowledge of the petitioner, cancelled settlement deed dated 27.12.2013 vide a cancellation of settlement deed dated 14.05.2015 registered as Doc.No.6893/2015 before the office of the Sub-Registrar, Ambattur. The petitioner states that subsequent to the settlement in his favour on 27.12.2013, he has expended substantial funds to put up superstructure on the land and is greatly prejudiced by the cancellation of settlement.

4.Notice in the writ petition has been issued to the 2nd respondent and duly served. Despite his name being printed in the cause list, there is no appearance by or on his behalf.

5.Mr.T.M.Pappaiah, learned Special Government Pleader, appears for the 1st respondent and fairly submits that the law as regards cancellation of deed of settlement has been settled by the Supreme Court in the case of Satya Pal Anand v. State of Madhya Pradesh and others [(2016) 10 SCC 767] to the effect that, once a document has been properly presented for registration, re-opening for registration/cancellation of registration can only be done by the competent civil Court and the authorities under the Registration Act have no powers to unilaterally cancel the same.

6.The judgment (supra) has also been followed by the Madurai Bench of the Madras High Court in the case of Nambikkai Mary v. The Sub Registrar-II, Pattukottai, Thanjavur and other [2015 (6) CTC 824], wherein, this Court, after considering several judgments to the aforesaid effect, including decision of a Full Bench of this Court in the case of Muppudathi Pillai v. Krishnaswami Pillai [AIR 1960 Mad.1] , in Para No.11 has held as follows :

'11. In the light of the dictum laid down by the Full Bench of this Court, I am of the considered view that the Deed of Cancellation of Settlement dated 1.2.2013, which has been alleged to have unilaterally executed by the Second Respondent, does not create,

assign, limit or extinguish any right, title or interest in the property and is of no effect and accordingly, it does not create any encumbrance in the property already transferred and therefore, it could not be accepted for registration. However, in the case on hand, the First Respondent has registered the said Cancellation Deed, on the ground that there is no provisions in the Registration Act to reject or refuse to register any document. Even then, it has no force in law, in view of the above said decision of the Full Bench of this Court.'

7. In the light of the aforesaid discussion, wherein, the law stands settled to the effect that there can be no unilateral cancellation of a deed, once validly registered, including settlement deed, this writ petition is liable to be allowed and I do so.

8. Accordingly, this writ petition is allowed. No costs.

Sd/-

Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

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To

The Sub Registrar, Ambattur,
Municipal Community Hall,
Gopalasamy Street,
Ram Nagar,
Chennai - 600 053.

+1 cc to Mr. J. Maheswari, Advocate, Sr.No. 37795
+1 cc to The Government Pleader, Sr.No. 38795

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VBA (CO)
CSL/04.06.2019

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