



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P (MD) No.20993 of 2019

and

WMP (MD) Nos.17588 and 17591 of 2019

Ramu

.. Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Melur Taluk,
Madurai District.

3.The Sub Registrar,
Registration Office,
Melur, Madurai District.

4.Veluchamy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the 3rd Respondent to cancel the entry made in respect of unilateral Cancellation Deed dated 12-10-1984 registered as Document No.2953/1984 in respect of Sy.No.171/16 and Sy.No.255/5 Arittapatti Village, Melur Taluk, Madurai District in the Encumbrance as well as in the book of entries within the time stipulated by this Court.

For Petitioner : Mr.P.M.Vishnuvarthanan

For R1 : Mr.P.Kannithevan
Additional Government Pleader

For R2 & R3 : Mr.M.Murugan
Government Advocate



ORDER

This writ petition is filed seeking direction to the third respondent to cancel the entry made in respect of unilateral Cancellation Deed dated 12.10.1984 registered as Document No.2953/1984 in respect of S.No.171/16 and S.No.255/5, Arittapatti Village, Melur Taluk, Madurai District in the encumbrance as well as in the book of entries.

2.The petitioner has purchased a property from the fourth respondent vide registered sale deed in Document No.1961/1984 dated 01.08.1984 for valuable consideration. Eversince the purchase, the petitioner is in peaceful possession and enjoyment of the property. He has also obtained electricity service connection and the property was also assessed to tax from 1984 to till date. While so, the fourth respondent made a claim that he is the absolute owner in view of the cancellation of the sale deed executed in favour of the petitioner. This came to the knowledge of the petitioner only in the month of October, 2018.

3.According to the petitioner, unilateral cancellation of sale deed is contrary to the ratio laid down by the Full Bench of this Court in a case reported in **2011(2) CTC 1 [Latif Estate Line India Ltd., Vs. Hadeeja Ammal and others]**. The relevant portion of the said decision is extracted hereunder:

"58.It can also not be overlooked or ignored that a unilateral cancellation of a Sale Deed by registered instrument at the instance of the vendor only encourages fraud and is against public policy. But there are circumstances where a Deed of Cancellation presented by both the vendor and the purchaser for registration has to be accepted by the Registrar if other mandatory requirements are complied with. Hence, the vendor by the unilateral execution of the Cancellation Deed cannot annul a registered document duly executed by him as such an act of the vendor is opposed to public policy."

4.In view of the same, the petitioner has to approach the third respondent in whose registers the encumbrance certificate, cancellation of sale deed were entered. Instead, the petitioner is before this Court seeking to remove the entry in respect of unilateral cancellation of the sale deed dated 12.10.1984. Further, the petitioner has not made any representation or appeal to the third respondent. Without taking any action, the petitioner has rushed to this Court.

5.Considering the factual circumstances, a direction is given to the petitioner to approach the third respondent and other appellate authorities to redress his grievance. After exhausting all the remedies, he can approach the appropriate Court of law.



6.The writ petition is disposed of with the above observation. No costs. Consequently, WMP(MD)Nos.17588 and 17591 of 2019 are closed.

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Sd/-

Assistant Registrar (CO)

/ True Copy /

Sub Assistant Registrar(CS-)

To

1.The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Melur Taluk,
Madurai District.

3.The Sub Registrar,
Registration Office,
Melur, Madurai District.

+1 CC to M/s.P.M. VISHNUVARATHANAN, Advocate
(SR-90808[F] dated 01/10/2019)

+1 CC to M/s.GP (SR-91174[F] dated 03/10/2019)

W.P. (MD) No.20993 of 2019
01.10.2019

mj
ES/16.10.2019/3P/6C