

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2020

CORAM :

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.23256 of 2015
and
M.P.No.1 of 2015

T.Gajendran

...Petitioner

.Vs.

1.The Sub Registrar,
Velachery,
Chennai.

2.T.Amsa Ammal

....Respondents

Petition filed under Article 226 of the Constitution of India for issuing a writ of mandamus directing the 1st respondent to cancel the Cancellation of Settlement Deed dated 30.04.2009 registered as Document No.1402 of 2009 on the file of the 1st respondent with respect to property situated at No.137, Velacherry Village, Sarathy Nagar, 5th Street, comprised in New Survey No.255/4 to an extent of 2266.55 sq.ft (5.375 cents).

For Petitioner : Mr.M.Sridhar

For Respondents : Mr.P.P.Purushothaman,
Government Advocate (R1)
Mr.J.Sudhakaran (R2)

ORDER

The petitioner has filed the above Writ Petition to issue a Writ of Mandamus directing the 1st respondent to cancel the Cancellation of Settlement Deed dated 30.04.2009 registered as Document No.1402 of 2009 on the file of the 1st respondent with respect to property situated at No.137, Velacherry Village, Sarathy Nagar, 5th Street, comprised in New Survey No.255/4 to an extent of 2266.55 sq.ft (5.375 cents).

2.It is the case of the petitioner that the 2nd respondent is his mother, who had executed a Settlement Deed in his favour on 03.04.2006 and subsequently, on 30.04.2009, she had unilaterally revoked the Settlement Deed under a registered document. According to the petitioner, the unilateral cancellation of the document is void and therefore, the 1st respondent should be directed to cancel the Revocation Deed dated 30.04.2009.

3.There cannot be any dispute that the unilateral cancellation made by the 2nd respondent is void under law. However, when the document is registered by the 1st respondent, the remedy open to the petitioner is to file a Civil Suit before a Competent Civil Court seeking for cancellation of the registered Revocation Deed dated 30.04.2009.

4.Mr.P.P.Purushothaman, learned Government Advocate appearing for the 1st respondent submitted that the remedy open to the petitioner is only to file a Civil Suit.

5.The learned counsel appearing for the 2nd respondent submitted that the petitioner should only file a Civil Suit and not a Writ Petition seeking for cancellation of the document.

6.Further, it is brought to the notice of this Court by the learned counsel for the petitioner that the 2nd respondent herself has filed a Civil Suit in O.S.No.2301 of 2017 on the file of the XVII Additional Judge, City Civil Court, Chennai to declare the Settlement Deed dated 03.04.2006 registered as Document No.1539 of 2006 as null and void and for other reliefs and the suit is posted for arguments on 05.10.2020.

7.In any event, the 1st respondent - Sub Registrar has no authority to cancel the Settlement Deed and it is only the Civil Court, which can cancel a registered document. In such view of the matter, I am not inclined to entertain the Writ Petition. Accordingly, the Writ Petition is dismissed. However, the dismissal of the Writ Petition shall not stand in the way of the Civil Court in deciding the Civil Suit in O.S.No.2301 of 2017 and the same shall be decided on merits and in accordance with law. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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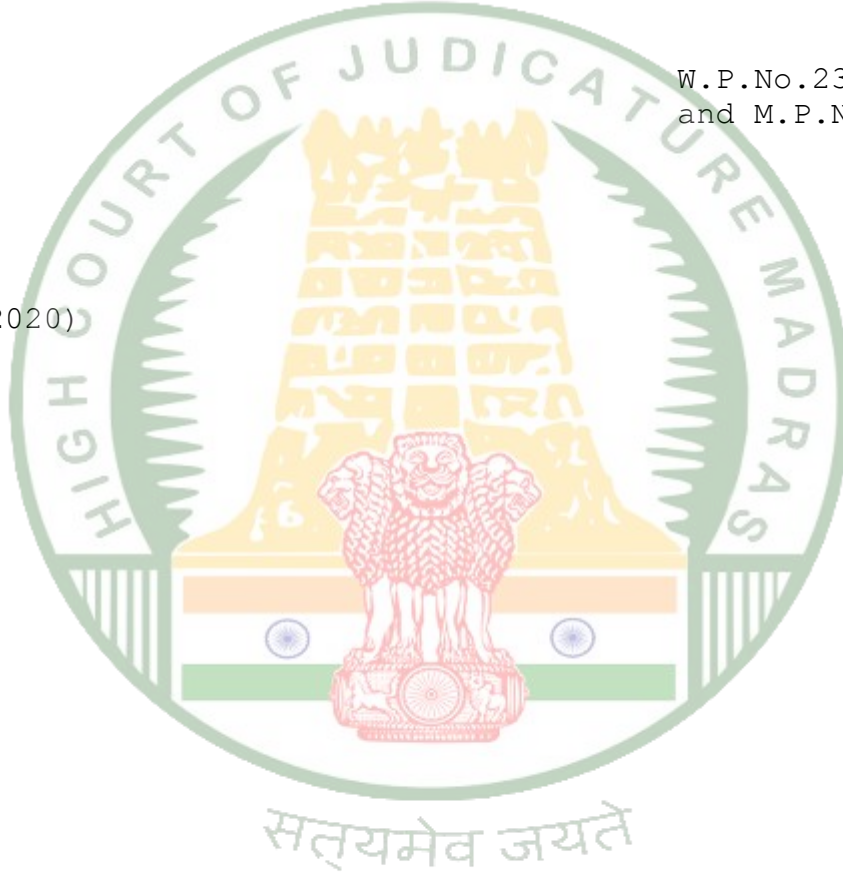
To

1.XVII Additional Judge,
City Civil Court,
Chennai.

2.The Sub Registrar,
Velachery,
Chennai.

W.P.No.23256 of 2015
and M.P.No.1 of 2015

AJS (CO)
RN (22/10/2020)



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