

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.7489 of 2019 and

W.M.P.No.8153 of 2019

R.Praveen Anand

... Petitioner

Vs.

1.The State rep by

The Inspector General of Registration,
No.100, Santhome High Road,
Mylapore,
Chennai 28.

2.The Sub Registrar Kodambakkam,
Office of the Sub - Registrar,
No.37/5, 5th Street,
100 Feet Road,
Kodambakkam, Chennai 24.

3.Mr.Britto Anand @ Bharath Anand

.... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorarified Mandamus, to call for the records of the second respondent and quash the unilateral cancellation of the settlement deed bearing Document No.547 of 2015 and subsequent settlement deed bearing document no.1017 of 2015 on the file of Sub Registrar, Kodambakkam and direct the first and second respondents to remove the encumbrance entries of the above mentioned documents and pass orders.

For Petitioner : Mr.A.Kripakaran

For Respondents : Mr.T.M.Pappiah,

Special Government Pleader for R1 & R2

R3- No appearance

ORDER

This writ petition has been filed to cancel the registration of the document entertained by the second respondent through which the Settlement Deed executed in favour of the petitioner's mother was unilaterally cancelled.

2.The Settlement Deed was executed in favour of the mother of the petitioner on 14.05.2008. It is seen from the Settlement Deed that the property was absolutely owned by the mother of the petitioner and the possession was also handed over. Subsequently, a document came to be registered on 09.02.2015 wherein a Settlement Deed executed in favour of the

mother of the petitioner was unilaterally cancelled. This document was entertained by the second respondent and it was also registered. Aggrieved by the same, the present writ petition has been filed before this Court, challenging the registration of the document.

3. Heard Mr.A.Kripakaran, learned counsel appearing on behalf of the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader appearing on behalf of the respondents 1 and 2. The third respondent has been served with notice and the third respondent does not appear either in person or through counsel and his name has also been printed in the cause list.

4. The issue involved in the present writ petition is squarely covered by the Full Bench Judgment of this Court in the case of *Latif Estate Line India Ltd Vs Hadeeja Ammal* reported in 2011 (2) CTC 1. This judgment was subsequently followed by the Division Bench of this Court in W.A.No.108 of 2020 dated 24.01.2020. The relevant portions in the order is extracted herein:

5. We have considered the submissions raised and we find that the Full Bench as dealt with the aforesaid issues in detail holding that the writ petition would be maintainable, and on merits also held that a deed of cancellation of a sale unilaterally executed by the transferor does not create, assign, limit or extinguish any right, title or interest in the property and is of no effect. The sum and substance, therefore, is that the writ petition filed by the respondents could be entertained, and in our opinion has been rightly allowed, following the dictum of the Full Bench in the case of *Latif Estate Line India Ltd vs Hadeeja Ammal* reported in 2011 (2) CTC 1 cited supra.

6. Learned counsel for the appellants then contends that the issuance of a Writ by this Court should not amount to extinguishing of any of the claims that the appellants can set up, questioning the very execution of the settlement deed dated 25.02.2008.

7. It is the submission of the learned counsel for the appellants that the appellants' right to a settlement deed dated 25.02.2008 cannot be usurped by any legal provisions and more so, the writ petition could not have been entertained after such a long passage of time.

8. We may clarify that an otherwise void document, as held by the Full Bench, cannot rejuvenate or survive any lapse of time and would not improve the situation any further, in as much as the documents is non-est in the eyes of law. The order of the learned Single Judge dated 10.08.2018 is simply a declaration

to the effect taking into account the law propounded by the Full Bench which in no way defeats the rights of the appellants to contest the original settlement deed dated 25.02.2008. We say this for the reason that the learned counsel for the appellants is right in his submission that the declaration granted by the High Court cannot extinguish the rights of the appellants to contest their position before the appropriate forum and even otherwise, the appellants must have been under the belief that the cancellation deed had fulfilled the said purpose. This may also be coupled with the issue of limitation, if any action is proposed by the appellants and we therefore, make it clear that from that point of view, the filing of the writ petition and the grant of declaration on 10.08.2018 shall not be a disadvantage in that regard.

5. In view of the settled law, this Court has no hesitation to allow the present writ petition and the registration of the cancellation of the Settlement Deed dated 09.02.2015, registered as Document No.547 of 2015 is hereby quashed. It is made clear that the cancellation of the registration will not be a bar for the parties to agitate their rights before the Competent Civil Court. Till the Settlement Deed that was originally executed on 14.05.2008 is held to be bad by a Competent Civil Court, the same will continue to be in force.

6.This writ petition is accordingly allowed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

vr

To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Mylapore,
Chennai 28.

2.The Sub Registrar Kodambakkam,
Office of the Sub - Registrar,
No.37/5, 5th Street,
100 Feet Road,
Kodambakkam, Chennai 24.

3.The Government Pleader,
High Court, Madras.

+4ccs to Mr.V.S.Senthil Kumar, Advocate SR.No.26922

+1cc to Government Pleader SR.No.27029

W.P.No.7489 of 2019 and
W.M.P.No.8153 of 2019

VS (CO)
GMY(28/08/2020)



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