



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 23.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE **N.KIRUBAKARAN**

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AND

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.A. (MD) No.1207 of 2020

Dr.Babu M.Abraham : Appellant/2nd Respondent

Vs.

1.A.Issac Abraham

2.The Sub-Registrar,
K.Sathanur,
Thiruchirappalli.

3.Rajan J.Abraham : Respondents/Writ petitioner/2 Respondent 1&3

PRAYER: Appeal filed under Clause 15 of the Letters Patent challenging the order dated 25.04.2019, made in W.P.(MD)No.4196 of 2017.

Prayer in WP(MD). 4196/ 2017 :

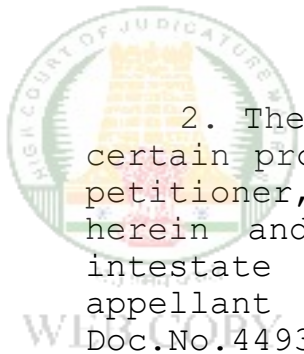
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus to call for the records of the 1st respondent in registering the impugned unilateral cancellation deed of release in Document No.4796/09 dated 30.12.2009 executed by the respondents 2 and 3 and quash the same and further direct the 1st respondent to remove the entry made regarding the unilateral cancellation deed of release in Document No.4796/09 dated 30.12.2009 in Book No.1 of his office.

For Appellant : Mr.B.Saravanan
For R.1 : Mr.H.Arumugam

JUDGMENT

(Judgment of the Court was delivered by **B.PUGALENDHI, J.**)

This writ appeal is filed by the appellant as against the order passed by the learned Single Judge in W.P.(MD)No.4196 of 2017, dated 25.04.2019. The said writ petition was filed by the first respondent herein as against the unilateral cancellation of release deed in Doc.No.4796/2009, dated 30.12.2009, executed by the appellant and the third respondent and the learned Single Judge, by the order impugned, allowed the writ petition.



2. The case of the writ petitioner is that his father purchased certain property and died intestate on 29.08.2002, leaving the writ petitioner, his mother, the appellant herein, the third respondent herein and another brother and sister. Their mother also died intestate on 13.09.2004. After the demise of their mother, the appellant and other brothers jointly executed a release deed in Doc.No.4493/2009, dated 10.12.2009 in respect of their share over the properties. But, subsequently, the appellant and the third respondent unilaterally cancelled the said deed by executing a cancellation of release deed in Doc.No.4796/2009, dated 30.12.2009, on the ground that the promised payment was not made.

3. As against the unilateral cancellation, the first respondent / writ petitioner filed the writ petition and this Court, following the decision of the Full Bench of this Court in **M/s.Latif Estate Line India Ltd., v. Hadeeja Ammal and Others**, reported in **2011 (1) L.W. 673**, allowed the writ petition as follows:

"5.The case on hand is squarely covered by the decision of the Hon'ble Full Bench reported in 2011 (1) Law Weekly 673 (M/s.Latif Estate Line India Limited Vs. Hadeeja Ammal and others). The Hon'ble Full Bench held as follows:-

"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."

6.Even though the Hon'ble Full Bench decision pertains to unilateral cancellation of sale deed, the same principle will apply to unilateral cancellation of settlement deed or release deed. Therefore, the registration impugned in this writ petition stands quashed. The writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed."

4. The only ground raised by the appellant in this writ appeal is that the impugned cancellation of release deed is not amenable to the jurisdiction of the Writ Court under Article 226 of the Constitution of India and it can be decided only by the appropriate civil forum.

5. This Court is not in a position to accede the said submission, for the reason that the order impugned is supported by the decision of a Full Bench of this Court, as such, this Court does not find any merit to entertain this writ appeal.



6. Accordingly, this writ appeal is dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar(CS)

To

The Sub-Registrar,
K.Sathanur,
Thiruchirappalli.

+1CC to M/s.SP1 GP, SR.No.27234 dated 28/12/2020

+1CC to Mr.H.Arumugam, Advocate, SR.No.27289 datd 28/12/2020

W.A. (MD) No.1207 of 2020

23.12.2020

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