



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2021

CORAM

THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

WP.Nos.10364 & 10365 of 2011

and

M.P.Nos.1 & 1 of 2011

WP.No.10364 of 2011

1.Lalitha RajaGopal (deceased)

2.K.Rajagopal

3.Usha Rajagopal

4.Ravi Rajagopal

(petitioners 2 to 4 impleaded as per
order dated 08.10.2021 in

WMP.No.20872 of 2021 in

WP.No.10364 of 2011)

... Petitioners

Vs

1.Inspector General of Registration,

No.100, Santhome High Road,

Chennai 600 028

2.Office of the Sub Registrar Perambakkam,

Perambakkam,

Thiruvllur Dis Post and Tiruvallur Taluk,

Thiruvallur District

3.Office of the Sub Registrar Sriperumbudur,

Sriperumbudur, Kancheepuram Taluk,

Thiruvallur District

4.Shanti

5.Venkat Rajesh

6.Gunabhushanammal

... Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration declaring that the registration of the cancellation of deed in doc.No.186 of 2011 dated 01.02.2011 alleged to be executed unilaterally and presented by the sixth respondent and



registered by the second respondent as void ab initio, unlawful and without jurisdiction through which the irrevocable settlement deed registered in the order passed in his proceedings in doc.No.1168 of 2009 in Book No.1Vol 827 page 59 to 64 on 04.05.2009 was cancelled without notice to the Transferee, the petitioner herein and against public policy.

For Petitioners : Mr.Abdu Kumar Rajarathinam
for Mr.R.Meenakshsundaram

For R1 to 3 : Mr.M.R.Gokul Krishnan
Government Advocate

For R4 & 5 : M/s.R.Mithra
for Mr.P.K.Rajagopal

For R6 : No appearance

WP.No.10365 of 2011

- 1.Gunabhushanammal (deceased)
- 2.K.Rajagopal
- 3.Usha Rajagopal
- 4.Ravi Rajagopal

(petitioners 2 to 4 impleaded as per
order dated 08.10.2021 in
WMP.No.20877 of 2021 in
WP.No.10365 of 2011)

... Petitioners

Vs

- 1.Inspector General of Registration,
No.100, Santhome High Road,
Chennai 600 028
- 2.Office of the Sub Registrar Perambakkam,
Perambakkam,
Thiruvllur Dis Post and Tiruvallur Taluk,
Thiruvallur District
- 3.Office of the Sub Registrar Sriperumbudur,
Sriperumbudur, Kancheepuram Taluk,
Thiruvallur District
- 4.Shanti
- 5.Venkat Rajesh
- 6.Meena



7.Bama

8.Mani

(respondents 6 to 8 impleaded as per
order dated 08.10.2021 in
WMP.No.208772 of 2021 in
WP.No.10365 of 2011)

... Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration declaring that the registration of the cancellation of deed in doc.No.186 of 2011 dated 01.02.2011 alleged to be executed unilaterally and presented by the petitioner and registered by the second respondent as void ab initio, unlawful and without jurisdiction through which the irrevocable settlement deed registered in the order passed by the second respondent in his proceedings in doc.No.1168 of 2009 in Book No.1Vol 827 page 59 to 64 on 04.05.2009 was cancelled without notice to the Transferee and against public policy.

For Petitioners : Mr.Abdu Kumar Rajarathinam
for Mr.R.Meenakshsundaram

For R1 to 3 : Mr.M.R.Gokul Krishnan
Government Advocate

For R4 & 5 : M/s.R.Mithra
for Mr.P.K.Rajagopal

COMMON ORDER

The writ petition in WP.No.10364 of 2011 is filed to issue a Writ of Declaration declaring that the registration of the cancellation of deed in doc.No.186 of 2011 dated 01.02.2011 alleged to be executed unilaterally and presented by the sixth respondent and registered by the second respondent as void ab initio, unlawful and without jurisdiction through which the irrevocable settlement deed registered in the order passed in his proceedings in doc.No.1168 of 2009 in Book No.1Vol 827 page 59 to 64 on 04.05.2009 was cancelled without notice to the Transferee, the petitioner herein and against public policy.

2. The case of the petitioner is that the mother of the deceased petitioner, the sixth respondent herein executed two settlement deeds dated 04.05.2009 registered vide document No.3426 of 2009 and 1168 of 2009. On the date of execution of the sale deeds, she handed over the original documents and copies in respect of the said properties in the settlement deeds. While being so, the fourth and fifth respondents who are



the wife of the predeceased son of the sixth respondent and son of the fourth respondent fraudulently executed cancellation of settlement deed dated 04.05.2009 executed in favour of the deceased petitioner and registered and same on 01.02.2011 vide document No.186 of 2011. Admittedly, the cancellation deed was executed in respect of settlement deed dated 04.05.2009 registered in document No.1168 of 2009.

3. However, the second respondent has no power or authority to cancel the settlement deed unilaterally without the knowledge of the deceased petitioner and without notice to the deceased petitioner herein. The issues involved in the writ petition has already been settled by the Hon'ble Full Bench of this Court in the case of *Latif Estate Line India Ltd Vs. Hadeeja Ammal* reported in 2011 (2) CTC 1, which was subsequently followed by the Division Bench of this Court in WA.No.108 of 2020 dated 24.01.2020, wherein it is held as follows:

5. We have considered the submissions raised and we find that the Full Bench has 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 W.A.No.108 of 2020 appellants that the appellants' right to a settlement deed dated 25.02.2008 cannot be usurped by any legal provision 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 document is non-est in the eyes of law. The order of the learned Single Judge dated 10.08.2018 is simply a



WEB COPY

declaration to that 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, W.A.No.108 of 2020 the filing of the writ petition and the grant of declaration on 10.08.2018 shall not be a disadvantage in that regard.

4. In view of the settled law, this Court has no hesitation to allow the writ petition and the registration of cancellation of settlement deed in doc.No.186 of 2011 dated 01.02.2011 is hereby quashed. It is also made clear that the cancellation of the said registration will not be a bar for the fourth and fifth respondents herein to agitate their right before the competent civil court challenging the settlement deed which was originally executed by the sixth respondent in favour of the deceased petitioner.

5. Accordingly, the writ petition in WP.No.10364 of 2011 is allowed. In view of the order passed in the above writ petition, the writ petition in WP.No.10365 of 2011 is also allowed. Consequently, connected miscellaneous petitions are closed. No order as to costs.

Sd/-

Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

lok

To

1. Inspector General of Registration,
No.100, Santhome High Road,
Chennai 600 028



2. Office of the Sub Registrar Perambakkam,
Perambakkam,
Thiruvallur Dis Post and Tiruvallur Taluk,
Thiruvallur District

WEB COPY

3. Office of the Sub Registrar Sriperumbudur,
Sriperumbudur, Kancheepuram Taluk,
Thiruvallur District

+2ccs to Mr.P.K.Rajagopal, Advocate SR.No.53920

WP.Nos.10364 & 10365 of 2011

PL(CO)
GMY(11/04/2022)