



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2021

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.15608 of 2015

and

M.P.Nos.1 and 2 of 2015

Dr.B.Rajarajan

... Petitioner

vs.

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

2.The Sub-Registrar-Thiyagaraya Nagar,
No.9 Jeenis Road,
Saidapet, Chennai - 600015.

3.Manorama (Died)

4.Bhoopathy ... Respondents
(R4 substituted as LR of deceased 3rd
respondent vide order dated 17.12.2021 made in
W.M.P.No.27783 of 2021 in W.P.No.15608 of
2015)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd Respondent culminated in the Cancellation Deed dated 30.04.2015 registered as Document No.1102/2015 (Book 1) in the office of the Sub-Registrar, Thiyagaraya Nagar, Chennai and quash the same and consequentially direct the 2nd Respondent to remove the entry made as Document No.1102 of 2015 in Book 1 in office of the Sub-Registrar, Thiyagaraya Nagar, Chennai.

For Petitioner : Mr.P.V.Balasubramaniam
M/s.BFS Legal

For R1 and R2 : Mr.Yogesh Kannadasan
Special Government Pleader

For R3 : No Appearance



ORDER

This writ petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent culminated in the Cancellation Deed dated 30.04.2015 registered as Document No.1102/2015 (Book 1) in the office of the Sub-Registrar, Thiyagaraya Nagar, Chennai and quash the same and consequently, to direct the 2nd respondent to remove the entry made as Document No.1102 of 2015 in Book 1 in the office of the Sub-Registrar, Thiyagaraya Nagar, Chennai.

2. The case of the petitioner is that the property comprised in Old S.No.3, New S.No.5 ad-measuring to an extent of 9 grounds situated at Malony Road, T.Nagar, Chennai and the property comprised in Old S.Nos.18/1, 125/6, 125/10 and 135, New S.No.6696 situated at Block No.123, T.Nagar, Chennai, were settled by the 3rd respondent, who is the grandmother of the petitioner by the Settlement Deed dated 02.03.2012 registered vide Document No.778 of 2012 on the file of the Sub-Registrar, T.Nagar, Chennai. On the strength of the Settlement Deed dated 02.03.2012, the petitioner had also obtained Patta bearing C.A.No.171 of 2014 and C.A.No.425 of 2014. Thereafter, the 3rd respondent had unilaterally executed a Deed of Cancellation of Settlement Deed dated 30.04.2015 and presented before the 2nd respondent herein for registration. The 2nd respondent without even issuing any notice to the petitioner and without any knowledge of the petitioner, mechanically cancelled the Settlement Deed vide Document No.1102 of 2015, dated 30.04.2015.

3. While pending the writ petition, the 3rd respondent died on 10.10.2015 and the petitioner's father, who is being legal heir of the deceased 3rd respondent, was impleaded as 4th respondent herein. The 4th respondent is living with the petitioner in the same house.

4. After registering the document, no authority has power to cancel the registration of document. The Civil Court alone can set aside the registered document. The 2nd respondent has no power to register the cancellation deed that too presented unilaterally. Therefore, the deed of cancellation dated 30.04.2015 registered vide Document No.1102/2015 (Book1) on the file of the Sub-Registrar, Thiyagaraya Nagar, Chennai is hereby declared as bad and non-est in the eye of law. In this regard, it is relevant to relied upon the Judgment reported in 2017(2) CWC 796 dated 31.07.2017 P.A.G.Kumaran -vs- Inspector General of Registration held as follows:

"13. According to the learned counsel



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for the petitioner, it is not only based on the judgment of the Apex Court reported in 2014 (4) CTC 572 (SC) (cited supra) that this Court has rendered a finding with regard to the cancellation of settlement deed, in W.P.No.6230 and 6231 of 2011 (cited supra), but also referring to the judgment of the Full Bench of this Court reported in 2011 (2) CTC 1 (cited supra) to show that when once the property is settled, it cannot be over-ruled or ignored that a unilateral cancellation at the instance of the person who has settled the property, can be cancelled, unless and otherwise it establishes fraud or against the public policy.

14. Though it has been vociferously contended by the learned counsel for the third respondent that the deed of cancellation can be done by the respondents 1 and 2 and in view of the judgment of the Full Bench of this Court reported in 2011 (2) CTC 1 (cited supra), as could be seen from paragraphs quoted therein above, it is no doubt true that the Writ Petition is maintainable, provided there are no disputed questions of fact. In this case, there is clear evidence to show that there are disputed questions of facts, namely that after the property has been settled in favour of the petitioner, under the guise of family dispute, the registration of the property was sought to be cancelled.

15. Though it is not in dispute that the property was purchased by the third respondent, as admitted by the petitioner, there is subsequent development which led to the settlement of the property in favour of the petitioner by the third respondent. Naturally, to avoid any stamp duty, such registration has taken place between the husband and wife and when the dispute arose, it comes to light as to under what circumstances, the property has been settled in favour of one person by the spouse. Since, as narrated by the third respondent in the



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counter that there are disputed questions of facts, the matter has got to be resolved only before the civil forum. This Court cannot render any finding based on the disputed questions of fact, as the parties will have to let in evidence.

16. In view of the fact that the unilateral cancellation of the settlement deed made by the first and second respondents is bad, this Court declares that the said cancellation of document, namely Deed of Cancellation of Settlement deed, registered as Document No.3328 of 2014, dated 10.11.2014, is illegal and in view of the same, the first and second respondents are directed to remove the entries in the Register and the subsequent transaction, namely settling the property in favour of the son of the third respondent, made pursuant to the unilateral cancellation of settlement deed, is also null and void. All the entries have got to be removed and this has got to be done within one month from the date of receipt of a copy of this order. This Court makes it clear that this order will not prevent the third respondent from approaching the Civil Court and establish her right over the property in question and if done, the Civil Court shall decide the matter without being influenced by any of the observations made in this writ petition touching on the merits of the matter. As this Court has held that the cancellation of settlement deed is illegal and without jurisdiction, and declared the same as null and void, if any suit is filed, the same has got to be decided by the Civil Court in accordance with law, including the issue of limitation. If the third respondent goes before appropriate forum with regard to the cancellation of settlement deed, which is the subject matter of this Writ Petition, this Court expects that the said civil forum to decide the matter as expeditiously as possible, from the date of initiation of such suit, and the matter shall not be adjourned beyond seven



working days at any point of time. The petitioner shall co-operate in the trial if such suit is filed."

5. The Cancellation of Settlement Deed dated 30.04.2015 registered vide Document No.1102/2015 (Book 1) on the file of the Sub-Registrar, Thiyagaraya Nagar, Chennai, is hereby set aside. The 2nd respondent is directed to remove and correct the entry made as Document No.1102/2015 (Book 1) on the file of the Sub-Registrar, Thiyagaraya Nagar, Chennai and all the relevant records. In view of the legal principles settled in the above Judgment, unilaterally cancellation of settlement deed is contrary to law. However, the 4th respondent is at liberty to challenge the settlement deed before the Civil Court in the manner known to law.

6. With the above direction, the writ petition is allowed. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

Dm

To

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

2.The Sub-Registrar-Thiyagaraya Nagar,
No.9 Jeenis Road,
Saidapet, Chennai - 600015.

+1cc to Mr.BFS Legal, Advocate SR.No.68776
+1cc to the Government Pleader SR.No.68648

W.P.No.15608 of 2015

NMI(CO)
GN(11/01/2022)