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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2021

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.17625 of 2013

and

M.P.No.1 of 2013

M.Saravanan

... Petitioner

Vs

1.The Inspector General of Registration,
Santhome, Chennai.

2.The Joint Sub-Registrar-I
Saidapet,
Office of the District Registrar,
South Chennai.

3.Kalpana

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating the Cancellation Deed (executed unilaterally by the third respondent) dated 28.06.2011 registered as Document No.5105 of 2011 in the Office of the second respondent, 'Quash' the same and consequently direct the second respondent to make an entry to that effect in the Register maintained in the Office of the second respondent.

For Petitioner : Mr.K.S.Kumar

For Respondents : Mr.M.R,Gokul Krishnan
R1 & R2 Government Advocate

For R3 : Mr. Ragavendran
for Mr.M.Vivekanandan



O R D E R

Writ Petition has been filed to issue a Writ of Certiorarified Mandamus calling for the records relating the Cancellation Deed (executed unilaterally by the third respondent) dated 28.06.2011 registered as Document No.5105 of 2011 in the Office of the second respondent, 'Quash' the same and consequently direct the second respondent to make an entry to that effect in the Register maintained in the Office of the second respondent.

2. The case of the petitioner is that the petitioner and the third respondent jointly purchased the property by the registered Sale Deed dated 05.09.2005 registered vide Document No. 6340 of 2005. Thereafter there was misunderstanding between them and therefore the petitioner filed divorce petition in O.P.No.104 of 2008. While pending the divorce petition, there was settlement between the petitioner and third respondent and she relinquished her half share in the property by the release deed dated 15.07.2008 registered vide Document No.4812 of 2008 on the file of the second respondent.

3. Thereafter, she herself unilaterally presented the deed to cancel the release deed executed by her before the second respondent and it got registered on 29.06.2011 as Document No. 5105 of 2011.

4. The learned Counsel for the petitioner would submit that the document which was executed by the third respondent thereby relinquished her right in favour of the petitioner by the release deed dated 15.07.2008. While being so, she again canceled the same unilaterally without the consent of the petitioner herein by the cancellation deed. That apart, the second respondent has no jurisdiction or authority to register the cancellation deed which was unilaterally presented for registration.

5. In this regard, it is relevant to rely upon the judgment in the case of P.A.G.Kumaran Vs. Inspector General of Registration in WP.No.7725 of 2015 dated 31.07.2017, wherein it is held as follows:



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"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."

6. In view of the above, the cancellation deed dated 28.06.2011 registered as Document No.5105 of 2011 in the Office of the second respondent is quashed and the writ petition is allowed. However, if really the third respondent has grievances with regards to the execution of the release deed on 15.07.2008,



she is at liberty to approach the Civil Court challenging the same. No order as to costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

lok/rgi

To

1.The Inspector General of Registration,
Santhome, Chennai.

2.The Joint Sub-Registrar-I
Saidapet,
Office of the District Registrar,
South Chennai.

+1cc to M/s.K.S.Kumar, Advocate, S.R.No.49329

+1cc to the Special Government Pleader, S.R.No.49739

W.P.No.17625 of 2013

RP(CO)
SB(26/10/2021)