



2.The Sub Registrar,
Achirapakkam,
Kancheepuram District

3.Lakshmi Ammal

... Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for records from the file of the second respondent pertaining to the deed of cancellation dated 22.02.2011 under document No.1314 of 2011 in respect of the landed properties mentioned in the schedule to the said document and quash the same as illegal and incompetent and without jurisdiction.

For Petitioner	:	Mr.P.Selvaraj
For Respondents		
For R1 & 2	:	Mr.Richardson Wilson, Government Advocate
For R3	:	Mr.P.Dineshkumar

COMMON ORDER

The Writ Petition in WP.No.21999 of 2011 is filed to issue a writ of certiorari calling for records from the file of the second respondent pertaining to the deed of cancellation dated 22.02.2011 under document No.1315 of 2011 in respect of the properties i.e. (i) Punja land measuring 75 cents in survey No.160/1 of No.37, Peria Kallakadi Village, Seyyur Taluk, Kancheepuram District within Achirapakkam Sub Registry and (ii) Punja land measuring 21 cents in survey No.113/17 in No.37, Peria Kallakadi Village in Seyyur Taluk, Kancheepuram District within Achirapakkam Sub Registry; and the Writ petition in WP.No.22000 of 2011 is filed to issue a writ of certiorari calling for records from the file of the second respondent pertaining to the deed of cancellation dated 22.02.2011 under document No.1314 of 2011 in respect of the landed properties mentioned in the schedule to the said document and quash the same as illegal and incompetent and without jurisdiction.

2. The petitioner is the grand son of the third respondent. Out of love and affection, the third respondent executed gift settlement deeds dated 12.05.2010 and 24.08.2010 settling the properties in his favour registered vide document No.2250 of 2010 and 4114 of 2010 in the Office of the Sub Registrar, Achirupakkam. The third respondent also delivered the possession of the subject properties to the petitioner on the date of the settlement deeds itself. While being so, the third



respondent unilaterally cancelled those settlement deeds by way of cancellation deed dated 22.02.2011.

3. The ground raised by the petitioner is that the cancellation deed relating to the immovable property is compulsorily registrable under Section 17 of the Indian Registration Act. Under Section 32 (a) of the Indian Registration Act, if it is transfer of ownership of immovable property, the photograph and fingerprint of both the parties to be affixed on the document. In the case of cancellation also, the same procedure should be followed. Therefore, the cancellation deed produced for registration unilaterally by the third respondent cannot be registered by the second respondent. In this regard, following the dictum laid down by the Hon'ble Supreme Court of India in the case of Satya Pal Anand Vs. State of Madhya Pradesh and others reported in 2016 (10) SCC 67, the Hon'ble Division Bench of this Court has held in the case of P.Rukmani Vs. Amudhavalli reported in 2020 (1) CTC 241, as follows:

7. The Honble Supreme Court in Satya Pal Anand Vs. State of Madhya Pradesh and Others (supra) in paragraph No. 40 held as under:

?The Andhra Pradesh High Court, in the case of Yanala Malleshwari was called upon to consider whether a person can nullify the sale by executing and registering a cancellation deed and whether the Registering Officer like District Registrar and/or Sub Registrar appointed by the State Government is bound to refuse registration when a cancellation deed is presented. The fact remains that if the stipulation contained in Sections 17 and 18 of the Act of 1908 are fulfilled, the Registering Officer is bound to register the document. The Registering Officer can refuse to register a document only in situations mentioned in Sections such as 19 to 22, 32 and 35. At the same time, once the document is registered, it is not open to the Registering Officer to cancel that registration even if his attention is invited to some irregularity committed during the registration of the document. The aggrieved party can challenge the registration and validity of the document before the Civil Court. The majority view of the Full Bench was that if a person is aggrieved by the Extinguishment Deed or its registration, his remedy is to seek appropriate relief in the Civil Court and a Writ Petition is not the proper remedy. ?

8. It was also stated at the bar that a



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civil suit, namely, O.S.No. 142 of 2008 has already been filed by the present Appellants P.Rukumani and others seeking the cancellation of the said sale deed dated 09.03.2005 which was later on cancelled by the another cancellation deed dated 20.09.2007 against the present respondents Amudhavalli and others, who have been arrayed as defendants and the said civil suit is pending trial in the Court of III Additional Sub Court, Coimbatore.

9. Considering the submissions made at the bar, we are of the clear opinion that in a case relating to execution of a conveyance deed or a sale deed or cancellation thereof, if there is any dispute about the rights of the parties involved therein, the only appropriate remedy for the parties is to approach the Civil Court by way of civil suit. The act of registration of a document is a consequential act which will be subject to the decree of Civil Court in case such a dispute arises.

10. We are of the clear opinion that such a relief could not have been sought or granted in Writ Jurisdiction under Article 226 of the Constitution of India. The civil rights of the parties based on relevant evidence can only be determined by a Civil Court by a competent Civil Court and not by the writ court under Article 226 of the Constitution of India. Such private rights of the parties cannot be made a subject matter of writ jurisdiction. The writ petitions under Article 226 of the Constitution of India lie only against the State or instrumentality of the State as defined under Article 12 of the Constitution of India. Therefore, such determination of private civil rights of the parties cannot be made subject matter of writ petition.

11. The act of the Sub Registrar in such cases will naturally depend upon the determination of the rights of the respective parties once adjudicated by the competent civil Court and therefore prematurely also such writ jurisdiction cannot be invoked, against Sub Registrar.

12. The Judgment of the Full Bench in Latif Estate Line India Ltd., (supra) relied by the learned counsel for the respondents 1 to 3 Mr. M.Sriram, vide paragraph No. 59 quoted above, has not laid down that in such cases Writ Jurisdiction can be invoked or is an appropriate remedy to be invoked. On the contrary, Clause (iv) of Paragraph



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59 quoted above clearly stipulates that the complete and absolute sale can be cancelled at the instance of the transferor only by taking course by way of civil Court by obtaining decree of cancellation of sale deed on the ground of fraud or other valid reasons. This Judgment of the Full Bench, with great respects, strengthens the view which we have taken above.

13. On the contrary, the Judgment relied by the learned counsel for the appellants in the case of Satya Pal Anand Vs. State of Madhya Pradesh and Others (supra) in paragraph No. 40 again clearly stipulates the view that aggrieved party in such cases can approach only the civil Court. Therefore, we are of the clear and fortified view that the Writ Petition in this case by the respondents/writ petitioners was a misconceived remedy and prematurely invoked by them seeking the cancellation of the Cancellation Deed dated 20th September 2007 and the learned Single Judge has erred, with great respects, in granting that relief.

4. Accordingly, the aggrieved person in such cases can approach only the civil court. The relief prayed in this writ petition could not have been sought or granted in Writ Jurisdiction under Article 226 of the Constitution of India. The civil rights of the parties based on relevant evidence can only be determined by a Civil Court by a competent Civil Court and not by the writ court under Article 226 of the Constitution of India. Therefore, the writ petitions itself are devoid of merits and liable to be dismissed.

5. In view of the above discussion, the writ petitions are dismissed. However, the petitioner is at liberty to approach the civil court to challenge the alleged cancellation deeds executed by the third respondent. The period of pendency of the writ petitions may be deducted while calculating the period of limitation to file the suit as contemplated under Section 14 of the Limitation Act. No order as to costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. Inspector General of Registration,
Santhome, Chennai

2. The Sub Registrar,
Achirapakkam,
Kancheepuram District

+lcc to Mr.P.Selvaraj, Advocate, S.R.No. 37862

+lcc to the Government Pleader, S.R.No.37736

WP.Nos.21999 & 22000 of 2011

NRL (CO)
GN (14/09/2021)