



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2021

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THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.4655 of 2019  
and  
W.M.P.No.5272 of 2019

K.Maniyarasan

...Petitioner

Vs

1. The Inspector General of Registration,  
Office of the Inspector General of Registration,  
No.100, Santhome High Road,  
Mylapore,  
Chennai - 600 028.
2. The District Registrar,  
The District Registrar Office Ariyalur,  
No.12, Perumal Koil Street,  
Ariyalur - 621 704.
3. The Sub-Registrar,  
Sendurai Sub-Registrar Office,  
Sendurai,  
Ariyalur District - 621 710.
4. Sepperumal
5. Karmegam

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, declaring the cancellation of settlement deed vide document No.3273/2018 dated 23.11.2018 registered on the file of the Sub Registrar, Sendurai and subsequent settlement Deed vide Document No. 3534/2018 dated 21.12.2018 registered on the file of the Sub-Registrar Office, Sendurai executed by the fourth respondent in favour of the fifth respondent as illegal, unlawful, arbitrary, ultravires, non est and unknown in the eye of law.

For Petitioner : Mr.Prakash Adiapadam  
For Respondents : Mr.A.Selvendran  
Government Advocate (for R1 to R3)  
: Mr.S.Annamalai (for R4 & R5)



## O R D E R

This writ petition is filed to issue a Writ of Declaration, declaring the cancellation of settlement deed, vide document No.3273/2018, dated 23.11.2018 registered on the file of the Sub-Registrar Office, Sendurai executed by the fourth respondent in favour of the fifth respondent as illegal, unlawful, arbitrary, ultra-vires, non est and unknown in the eye of law.

2. The petitioner is the grand-son of the fourth respondent herein. The property is comprised in S.No.261/8, bearing Patta No.491, ad-measuring an extent of 0.05.5 HAC. The property comprised in Survey No.261/6, bearing Patta No.491, ad-measuring an extent of 0.36.5 HAC along with other properties, is owned by the fourth respondent. Due to love and affection, the fourth respondent executed the settlement deed in favour of the petitioner on 05.08.2016 in respect of the above said properties and registered vide Document No.1867/2016. The settlement deed is unconditional and irrevocable and from the date of settlement deed, the petitioner is in possession and enjoyment of the properties. In fact, on the strength of the settlement deed, the patta was transferred in favour of the petitioner in Patta No.2553. While that being so, the fourth respondent executed the cancellation of settlement deed unilaterally and presented the same for registration before the third respondent and the same was registered as Document No.3273/2018, dated 23.11.2018. Thereafter, the fourth respondent executed the settlement deed in favour of the fifth respondent, who is the none other than the father of the petitioner herein and the same was registered, vide Document No.3534 of 2018, dated 21.12.2018 on the file of the third respondent.

3. However, the third respondent has no power or authority to register any unilateral cancellation deed, that too, without notice and without conducting any enquiry. The issues involved in the prayer writ petition had 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



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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 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, as extracted above, this Court has no hesitation to allow the writ petition. Accordingly, this writ petition is allowed as prayed for and the unilateral cancellation of settlement deed dated 23.11.2018 registered vide document No.3273 of 2018 and the subsequent settlement deed dated 21.12.2018 registered as document No.3534 of 2018, are 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 fourth respondent in favour of the petitioner. Consequently, the connected Miscellaneous Petition is closed. No costs.

s/d-  
Assistant Registrar

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Sub-Assistant Registrar

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To

1. The Inspector General of Registration,  
Office of the Inspector General of Registration,  
No.100, Santhome High Road,  
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3. The Sub-Registrar,  
Sendurai Sub-Registrar Office,  
Sendurai,  
Ariyalur District - 621 710.

+1 CC to Mr. Prakash Adiapadam, Advocate sr 58412

+1 CC to The Government Pleader sr 58199.

W.P.No.4655 of 2019

NRL (CO)  
SP(30/11/2021)