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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.7232 OF 2015

AND

M.P.NO.1 OF 2015

G.Perumal

...Petitioner

Vs.

1.The Sub-Registrar,
Villivakkam SRO,
Villivakkam, Chennai.

2.Mariammal

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in relation to registration of the cancellation deed dated 04.02.2015 vide Doc.No.499/2015 executed by the 2nd respondent and quash the same as illegal and unlawful and consequently direct the 1st respondent to annul the registration of the cancellation deed dated 04.02.2015 in Doc.No.499/2015 on the file of the 1st respondent executed by 2nd respondent and delete the entries with regard to the above said deed from the 'A' Register maintained by the 1st respondent.

For Petitioner : Mr.S.Viswanathan

For 1st Respondent : Mr.Gokul Krishnan
Government Advocate

For 2nd Respondent : Notice Served (No Appearance)

O R D E R

The writ petition is filed to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in relation to registration of the cancellation deed dated 04.02.2015 vide Doc.No.499/2015 executed by the 2nd



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respondent and quash the same as illegal and unlawful and consequently direct the 1st respondent to annul the registration of the cancellation deed dated 04.02.2015 in Doc.No.499/2015 on the file of the 1st respondent executed by 2nd respondent and delete the entries with regard to the above said deed from the 'A' Register maintained by the 1st respondent.

2. The case of the petitioner is that the 2nd respondent owned the property comprised in S.No.466/1 situated at Korattur Village, Ambattur Taluk, Thiruvallur District, ad-measuring to an extent of 66 cents by way of sale deed dated 20.06.1978, registered vide Document No.985/1978 on the file of the Sub Registrar Office, Ambattur and the same was subsequently converted into plots and settled the same on her own apportionment in favour of her 3 sons namely Seeyalam, Murugesan and the petitioner herein by Settlement Deed dated 11.10.1995, registered vide Document No.4103/1995 on the office of the Sub-Registrar, Villivakkam, in respect of the house plots bearing Plot Nos. 1 and 6 to an extent of 852 sq.ft., and 2560 sq.ft., respectively. As per the settlement deed, the 2nd respondent retains her life interest for the said property. Thereafter, it has been handed over to the petitioner and it has been acted upon. The petitioner is in possession and enjoyment of said property. Thereafter, there was some misunderstanding between the petitioner and his brothers. The brothers out of coercion and undue influence, the 2nd respondent without any notice and without knowledge of the petitioner cancelled the settlement deed dated 11.10.1995 by way of a cancellation of a settlement deed dated 04.02.2015, registered vide Document No.499/2015 on the file of the 1st respondent. Therefore, the petitioner filed the present writ petition.

3. However, the first respondent has no power or authority to cancel the settlement deed unilaterally without the knowledge of the petitioner and without notice to the 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



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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, this Court has no hesitation to allow the writ petition and the registration of cancellation of settlement deed in Doc.No.499 of 2015 dated 04.02.2015 is hereby quashed. It is also made clear that the cancellation of the said registration will not be a bar for the 2nd respondent herein to agitate her right before the competent civil court challenging the settlement deed which was originally executed by her in favour of the petitioner.



5. Accordingly, this writ petition is allowed. Consequently, connected miscellaneous petition is closed. No order as to costs.

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Sd/-
Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

ssn

To

The Sub-Registrar,
Villivakkam SRO,
Villivakkam, Chennai.

+1cc to M/s.Dass & Viswa Associates, Advocate SR.No.53615

W.P.No.7232 of 2015
and
M.P.No.1 of 2015

PCH(CO)
RVM(10/11/2021)