



Rev. Appl.No.99 of 2021 in
SA.No.357 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Review Application No.99 of 2021

in

S.A.No.357 of 2020

1.Brinda
2.Kavitha
3.Kamal @ Saranya

... Petitioners

Vs

1.Natarajan
2.Selvaraj
3.Ganesan
4.Lakshmi
5.Subash Chandrabose
6.Gunasekar

... Respondents

Prayer: Review Petition filed under Order XLVII Rule 1 read with Section 114 of C.P.C., against the Order dated 27.07.2020 in S.A.No.357 of 2020 on the file of this Court against the Judgment and Decree dated 26.06.2018 passed in A.S.No.46 of 2015 by the I Additional Sub Judge, Villupuram,



Rev. Appl.No.99 of 2021 in
SA.No.357 of 2020

confirming the Judgment and Decree dated 21.04.2015 passed in O.S.No.12 of 2014 on the file of the Principal District Munsif Court at Villupuram.

For Petitioners : Dr.Krishnamoorthy, Senior Counsel
for M/s.A.K.M.Samsunthar

ORDER

The petitioners seek review of judgment in S.A.No.357 of 2020 dated 27.07.2020.

2.The petitioners are the plaintiffs 2 to 4 in the said suit in O.S.No.12 of 2014 out of which the above second appeal arose. The suit was filed by the petitioners seeking a declaration of their title on the ground that they had purchased the property from one Kogilambal on 14.12.2001 and therefore, they are entitled to the property. They also disclosed the fact that Kogilambal had executed a settlement deed in favour of the defendants 5 and 6 in the suit on 21.04.1999 and thereafter, she has cancelled it on 26.11.2001. The trial Court had dismissed the suit on the ground that the cancellation dated 26.11.2001 being an unilateral cancellation will not affect the rights of defendants 5 and 6 under the settlement deed dated 21.04.1999.



Rev. Appl.No.99 of 2021 in
SA.No.357 of 2020

WEB COPY

They also went on to hold that Kogilambal did not have title after the execution of the settlement deed dated 21.04.1999. The cancellation being invalid, the sale deed executed by Kogilambal on 14.12.2001 will not convey title to the plaintiffs. This conclusion of the trial Court was affirmed by the appellate Court and further affirmed by me in second appeal.

3.Dr.Krishnamoorthy, learned counsel appearing for the petitioners would vehemently contend that the defendants have not sought for a declaration that the cancellation is invalid and therefore, the Court below and I erred in declaring the cancellation as invalid and refusing relief to the plaintiffs. I do not think, I can countenance the claim of the learned counsel. It is settled law that an unilateral cancellation of a non-testamatory instrument is invalid and no declaration to that effect is necessary. Such a cancellation instrument will not bind the title holders under the instrument that is cancelled. Therefore, it is not necessary for the title holders to seek a declaration that the cancellation is invalid. The plaintiff who claimed title pursuant to the cancellation do not derive title. Therefore, the only ground that is attempted to be canvassed in this review does not survive. I see no



Rev. Appl.No.99 of 2021 in
SA.No.357 of 2020

error on the face of the record in the judgment under review and therefore, I
do not find any necessity to entertain the review application and the review
application is therefore dismissed. No costs.

20.12.2021

vs

Index: Yes

Speaking order

To:

The Section Officer,
VR Section,
Madras High Court, Chennai.



WEB COPY



Rev. Appl.No.99 of 2021 in
SA.No.357 of 2020

R.SUBRAMANIAN, J.

VS

Review Application No.99 of 2021
in
S.A.No.357 of 2020

20.12.2021