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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P. NO.33999 OF 2016

AND

W.M.P NOS.29337 OF 2016 & 5413 OF 2020

Catherine Daniel

... Petitioner

-Vs-

1. The Joint II Sub-Registrar,
Thousand Lights,
Chennai.

2. Gladis Lucas

3. Liji @ Jessy Lucas

4. Steffi Lucas

... Respondents

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the registration of the Cancellation Deed dated 17.01.2014 executed by the respondents 2 to 4 in favour of the petitioner registered as Document No.42/2014 in the office of the first respondent and quash the same and consequently directing the first respondent to remove the entry of document No.42 of 2014 from the Encumbrance Certificate in respect of the property.

For Petitioner : Ms.Vasudha Thiagarajan

For Respondents

For R1 : Mr.Richardson Wilson
Government Advocate.

For R2 to R4 : Mr.R.Imayavaramban
For M/s.Ramalingam Associates

ORDER

This Writ Petition has been filed to call for the records pertaining to the registration of the Cancellation Deed



dated 17.01.2014 executed by the respondents 2 to 4 in favour of the petitioner registered as Document No.42/2014 in the office of the first respondent and quash the same and consequently directing the first respondent to remove the entry of document No.42 of 2014 from the Encumbrance Certificate in respect of the property.

2. The case of the petitioner is that the respondents 2 to 4 herein executed a Settlement Deed dated 10.12.2013 registered vide document No.1367 of 2013 in favour of the petitioner. In pursuant to the said settlement deed, the petitioner executed Settlement Deed dated 12.10.2015 in favour of her sister and presented the same for registration before the first respondent. The said Settlement Deed was kept pending for the reason that the Settlement Deed executed in favour of the petitioner dated 10.12.2013 was cancelled by the Cancellation of Settlement Deed dated 17.01.2014, registered vide document No.42 of 2014 on the file of the first respondent. Hence, the petitioner approached this Court with the above said prayer.

3. Heard Ms.Vasudha Thiagarajan, learned counsel appearing for the petitioner, Mr.Richardson Wilson, learned Government Advocate appearing for the first respondent and Mr. R.Imayavaramban, learned counsel appearing for the respondents 2 to 4.

4. Admittedly, the Cancellation of Settlement Deed was executed unilaterally by the respondents 2 to 4 herein and registered the same by the first respondent. The very registration of the Cancellation of Settlement Deed is contrary to law, since 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.

5. In this regard, it is relevant to relay upon the judgment of the Hon'ble Full Bench of this Court reported in 2011 (2) CTC 1, in the case of Latif Estate Line India Ltd Vs. Hadeeja Ammal, which was subsequently followed by the Hon'ble Division Bench of this Court in WA.No.108 of 2020 dated 24.01.2020, in the case of Kanniyar and anr Vs. Saranya and ors, 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



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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."



6. In view of the above settled law, this Court has no hesitation to allow the Writ Petition. Accordingly, the Cancellation of Settlement Deed dated 17.01.2014 in document No.42 of 2014 is declared as null and void. The first respondent is directed to remove the entry of document No.42 of 2014 from the Encumbrance Certificate in respect of the property. The respondents 2 to 4 are at liberty to challenge the said settlement deed dated 10.12.2013, in the manner known to law.

7. With the above directions, this Writ Petition is allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rts

To

The Joint II Sub-Registrar,
Thousand Lights,
Chennai.

+lcc to Mr.R.Thiagarajan, Advocate, S.R.No.54458
+lcc to the Government Pleader, S.R.No.55059

W.P. No.33999 of 2016 and
W.M.P Nos.29337 of 2016 & 5413 of 2020

KG(CO)
PM/12/11/2021