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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.6301 OF 2014
AND W.M.P.NO.1 OF 2014
AND W.M.P.NOS.3234 & 3235 OF 2016

A.V Sivakumar

... Petitioner

-Vs-

1. The Inspector General of Registration,
Office of the Inspector General of Registration,
No.100, Santhome High Road,
Pattinambakkam,
Chennai-600 028.

2. The Sub Registrar,
The Office of the Sub Registrar,
Pammal, Chennai-600 075.

3. A.Venkatesh.

4. A.V. Hari Krishnan

... Respondents

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration declaring the Cancellation Deed registered by the second respondent in the document bearing the Registration No.219 of 2014, 220 of 2014 dated 20.01.2014 as illegal, void as the act of second respondent is against the provision of Registration act and Public policy.

For Petitioner : Mr.M.Sriram for
M/S.Ramesh Venkatachalapathy

For R1 & R2 : Mr.M.R.Gokul Krishnan
Government Advocate.

For R3 : Mr.N.C.Ashok kumar.



ORDER

This Writ Petition has been filed for issuance of a Writ of declaration, declaring that the cancellation deed dated 20.01.2014 registered vide document Nos.219 & 220 of 2014 by the second respondent as illegal, void as the act of second respondent is against the provision of Registration act and Public policy.

2. Heard Mr.M.Sriram, learned counsel appearing for the petitioner, Mr.M.R.Gokul Krishnan, learned Government Advocate appearing for the respondents 1 & 2 and Mr.N.C.Ashok kumar, learned counsel appearing for the respondent 3.

3. The case of the petitioner is that he is the son of the third respondent herein. The third respondent executed a settlement deed dated 06.11.2012 in respect of the property comprised in S.No.168/3C, 168/3D and 156 and the same was registered vide document No.5828 of 2012. In fact, he also executed another settlement deed with regard to the property comprised in S.No.80/2A, 80/3A, 80/3B, 80/4A, 80/4B, 80/5 and 80/6 registered vide Document No.5829 of 2012. After execution of the settlement deed, the petitioner has been continuously enjoying the property as per the settlement deed. While being so, on 20.01.2014, the third respondent cancelled the settlement deed from the office of the second respondent without petitioner's consent and the same was registered as vide document Nos.219 and 220 of 2014. Thereafter, the second respondent cancelled all the settlement deeds on the ground that it had been executed unilaterally without the consent of the petitioner.

4. The learned counsel for the third respondent submitted that the third respondent, being the father of the petitioner, executed the settlement deed in favour of the petitioner as well as the fourth respondent herein on 06.11.2012. Thereafter, the petitioner was thrown out from their house and as such, he cancelled the settlement deed, which was, executed in favour of the petitioner on 20.01.2014 and registered as document Nos.219 & 220 of 2014. Thereafter, on 29.01.2014 and 11.02.2014, the other properties were duly settled in favour of the petitioner by the third respondent herein.

5. Insofar as the property mentioned in the settlement deed was cancelled by the cancellation deed, thereafter the petitioner filed a suit in O.S.No.58 of 2014 on the file of the



District Munsif Court, Alandur, for a permanent injunction in respect of the very same property on 23.01.2014. Pending the said suit, the petitioner also filed another suit in O.S.No.107 of 2014 on the file of the District Munsif Court, Alandur for the following prayers :-

'a. To declare the plaintiff right, interest and title over in the suit properties.

b. To declare the cancellation of settlement vide document Nos.219 & 220 of 2014, dated 20.01.2014 is illegal and invalid?

c. Permanent Injunction restraining the defendants 1 to 6 (or) any person authorized by them from interfering the plaintiff possession and enjoyment in the A, B Schedule of suit property;

d. To award cost and pass such other orders as deems fit to this Hon'ble Court under the circumstances case and thus render justice.'

6. The petitioner failed to file any interim injunction before the Trial Court. While pending the said suit, the present writ petition has been filed for the very same prayer by challenging the cancellation of settlement deed as illegal and void. It is also seen that while pending the said suit, again the petitioner filed another suit in O.S.No.105 of 2015 on the file of the Additional District Court, Chengalpet, for partition in respect of the properties mentioned in the settlement deed. In the plaint, the petitioner categorically averred as follows :-

'The Plaintiff submits that the first Defendant through a Settlement deed vide Document No.5828 of 2012 settled the Plaintiff with a land measuring 39.5 cents out of 79 cents comprising Item Nos. 6, 7, 8, 9, 10, 11 out of the total 13 Items of the suit schedule property which measures an extent of 3 Acres and 46 cents. The Plaintiff submits that both the Plaintiff and second defendant were equally settled 39.5 cents as stated supra and subsequently on 20.01.2014 the first defendant cancelled the above said settlement deed through Cancellation Deed vide Doc.No.219 of 2014. And hence the Plaintiff was not been settled with any properties by the first defendant.'

7. According to the petitioner, though the suit property was already settled in his favour, thereafter, by an execution



of cancellation of the settlement deed, the settlement deed was cancelled and as such, he sought for partition in respect of the property mentioned in the settlement deed. It shows that the petitioner accepted the cancellation of settlement deed and filed a suit for partition. In fact, the said suit was also decreed by the Judgment and Decree dated 27.04.2021 in favour of the petitioner and he was allowed 1/3rd share in the suit schedule property. The only ground raised by the petitioner is that the settlement deed, which was executed by the third respondent has been cancelled unilaterally without the consent of the petitioner herein.

8. In this regard, the learned counsel for the third respondent relied upon a Judgment reported in 2015 2 CWC 500 in the case of G.Faridha Begum Vs. The Inspector General of Registration, the relevant portion is extracted hereunder :-

" 14. Per contra, the Counsel appearing for the fourth respondent raised objection with regard to the maintainability of the Writ petition.

approached the Civil Court for the very same relief of cancellation of Settlement Deed and hence, the present Writ Petition is not at all maintainable. He relied on some of the decisions reported in K.S.Rashid & Son v. The Income-Tax Investigation, AIR 1954 SC 207 (Vol.41,C.N.46); Jai Singh v. Union of India and others, 1977 (1) SCC 1; Bombay Metropolitan Region Development v. Gokak Patel Volkart Lts. And others, 1995 (1) SCC 642; State of Punjab and others v. Punjab Fibres Ltd.and others, 2005 (1) SCC 604; and Vimal Chand Bora, K. and another v. The Inspector General of Registration and others, 2012 (2) CWC 866.

18. In a decision of the Hon'ble Supreme Court reported in Jai Singh v. Union of India and others, 1977 (1) SCC, it has been held that High Court should not in exercise of its Extraordinary jurisdiction grant the relief, when a party has already filed a Suit, in which, similar relief has been sought for. But it is the submission of the learned Counsel for the Petitioner that the Suit was filed as against the fourth respondent for declaring the cancellation of Deed, dated 07.04.2010 bearing Document No.2069/2010 executed by the Defendant cancelling the Private SettlementWakf Deed dated 14.05.2008 as null and void and not binding on the Plaintiff, namely, the Petitioner herein, the present Writ Petition has been filed to set aside the impugned order passed by the second respondent rejecting the representation given



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by the petitioner with regard to cancellation of unilateral Settlement Deed and as such it cannot be said the prayer made in the suit and the writ petition is one and the same. But, I am not inclined to accept the submission of the learned counsel for the petitioner for the reason that if the suit is decreed in favour of the petitioner, the ultimate result both in the Civil Suit and in this writ petition would be the one and the same. It is apt to mention that the Hon'ble Supreme Court is of the opinion that the litigant cannot pursue two parallel remedies in respect of the same matter at the same time."

9. Accordingly, when a party has already filed a suit, in which similar relief has been sought for, when it being so, the High Court should not in exercise of its extraordinary jurisdiction grant the relief. In the case on hand, the petitioner already filed a suit for declaration, declaring that the cancellation of settlement deed as null and void. Though subsequently, it was not pressed, while pending the said suit, the present writ petition has been filed for the very same relief. That apart, the petitioner accepted the cancellation of the settlement deed and filed a suit for partition in respect of the very same property in O.S.No.105 of 2015 on the file of the learned Additional District Court, Chengalpet and the same was decreed by the Judgment and Decree dated 27.04.2021. Therefore, the petitioner is not entitled to seek the same prayer before the Civil Court as well as before this court. Thus, the writ petition cannot be entertained for the very same relief, which was already asked before the Civil Court.

10. Accordingly, the writ petition stands dismissed. Consequently, connected Miscellaneous Petitions are closed. There shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

lpp/mn



To

1. The Inspector General of Registration,
Office of the Inspector General of Registration,
No.100, Santhom High Road,
Pattinambakkam,
Chennai-600 028.

2. The Sub Registrar,
The Office of the Sub Registrar,
Pammal, Chennai-600 075.

+1cc to Mr.M.Sriram, Advocate, S.R.No.45073

+1cc to Mr.C.Jagadish, Advocate, S.R.No.45668

+1cc to the Government Pleader, S.R.No.45536,45556

W.P. No.6301 of 2014
and W.M.P. No.1 of 2014
and W.M.P. Nos.3234 of 2016

(CO)
PM/11/10/2021