



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.NO.18317 OF 2021

C.Tharani

... Petitioner

.Vs.

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

2. The Sub Registrar,
Walajabad,
Kancheepuram District

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring that the Cancellation Deed dated 30.04.2010 registered as Document No.2054 of 2010 in the office of the 1st respondent is null and void and non-est in the eye of law and consequently, direct the 2nd respondent to remove the above entry in the register maintained by him.

For Petitioner : Mr.A.Velmurugan

For Respondents : Mr.Yogesh Kannadasan
Government Advocate

O R D E R

This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring that the Cancellation Deed dated 30.04.2010 registered as Document No.2054 of 2010 in the office of the 1st respondent is null and void and non-est in the eye of law and consequently, direct the 2nd respondent to remove the above entry in the register maintained by him.

2. The brief facts of the case is that the petitioner's father, namely, M.Chidambaram Naicker owned agriculture punja lands to an extent of 0.39 cents in S.No.7/2, 0.39 cents in



S.No.159/3 and 0.71 cents in S.No.204/3, in total, an extent of 1.49 cents situated at No.163, Alavur Village, Kanchipuram Taluk, Kanchipuram District and the same was purchased from one A.K.Krishnasamy and others under a sale deed dated 10.08.1978 registered as Document no.3129 of 1978 in the office of the 2nd respondent. The father of the petitioner settled the above said lands to an extent of 1.49 cents to and in favour of the petitioner under settlement deed dated 03.03.2010 registered as Document No.939 of 2010 in the office of the 2nd respondent. Meanwhile, the petitioner's father settled the other portions to the petitioner's brothers, viz., Ellappan and Regupathy. By virtue of the settlement deed in favour of the petitioner, the revenue records were mutated in the name of the petitioner and that the petitioner is in possession and enjoyment of the property till date.

3. Further, during February 2021, the petitioner decided to settle the above said property to and in favour of his son and prepared a draft settlement deed. On 26.02.2021, when the petitioner received encumbrance certificate from the 2nd respondent, it is seen that his father had unilaterally revoked the settlement deed dated 14.12.2009 executed in favour of the petitioner by way of cancellation deed dated 30.04.2010 registered as document no.2054 of 2010 in the office of the 2nd respondent. The said cancellation deed dated 30.04.2010 registered as document no.2054 of 2010 executed by the petitioner's father and accepted by the 2nd respondent is non-est in the eye of law. Hence seeking to declare that the cancellation deed dated 30.04.2010 as null and void, the petitioner has filed this petition.

4. The learned counsel for the petitioner submits that the unilateral cancellation is unsustainable in law and against the natural justice. Further, once the gift is complete, the same cannot be rescinded by the donor and the respondents ought to have considered that any deed cannot be revoked without the consent of both parties. The deed of unilateral cancellation does not create assign, limit or extinguish any right, title or interest in the subject property. The respondents' act is illegal and it is against their own Circular passed by the 1st respondent in 11.08.2021 bearing letter no.25644/C1/2021.

5. The learned counsel for the petitioner in support of his contention has relied on the Judgment of this Court in M/s Latif Estate Line India Ltd., rep. By its Managing Director Vs. Hadeeja Ammal & others reported in 2011 (2) CTC 1 and the case reported in CDJ 2019 MHC 4842 [V.Devika Rani @ V.R.Dhevika & Others Vs. R.Varadarajulu and others. The cancellation deed executed by the petitioner's father on 30.04.2010 and due to the covid 19 pandemic situation, the petitioner could not approach



this Court, hence seeks to declare the impugned cancellation deed dated 30.04.2010 registered as Document no.2054 of 2010 in the office of the 2nd respondent as null and void.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the documents placed on record.

7. Admittedly, the petitioner in order to substantiate his case has produced the settlement deed executed by his father dated 03.03.2010 in favour of the petitioner, Cancellation Deed dated 30.04.2010 executed by the petitioner's father. That apart, patta and tax receipts in the name of the petitioner and the circular bearing letter no.25644/C1/2021 issued by the 1st respondent.

8. It is to be noted that in the case of Samiappan and Others Vs. Rajamani reported in CDJ 2014 MHC 5730, the similar issue arose for consideration and the Court held that the settlement deed cannot be set at naught unilaterally by one party. The party, who settled the property in favour of the petitioner is none other than his father, who had executed the settlement deed dated 03.03.2010 and the petitioner was put in possession. However, the father chose to cancel the documents on 30.04.2010, i.e, within one month from the date of settlement deed. Also, the Sub Registrar, who registered the cancellation deed ought to have issued notice to the parties under the Settlement deed, namely, the petitioner and without doing so, has unilaterally registered the documents ignoring the fact that the settlement deed were acted upon.

9. In view of the above, the petitioner is directed to approach the respondents for cancellation of the deed dated 30.04.2010 registered as Document No.2054 of 2010 narrating all the facts by way of the representation within a period two weeks from the date of receipt of a copy of this order and the respondents shall consider and pass appropriate orders in view of the Judgment mentioned supra and the guidelines issued in the circular no.25644/C1/2021 by the 1st respondent within a period of eight weeks thereafter.

With the aforesaid direction, the present Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar



ssd

To

1. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 600 028.
2. The Sub Registrar,
Walajabad,
Kancheepuram District.

+1cc to Mr.A.Velmurugan, Advocate, S.R.No.49192
+1cc to the Government Pleader, S.R.No.49770

W.P.NO.18317 OF 2021

PMK(CO)
PBS/07/10/2021