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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.24252 OF 2014

AND

M.P.NO.1 OF 2014

S.Loganathan

... Petitioner

-Vs-

1. The District Registrar,
Office of the District Registrar,
Tiruppur District,
Tiruppur.

2. The Joint Sub-Registrar,
District Registrar Office,
Tiruppur,
Tiruppur District.

3. Kamalammal

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for records pertaining to the unilaterally executed cancellation deed dated 12.04.2014 bearing document No.7057/2014 on the file of second respondent and quash the same and consequently direct the respondents 1 and 2 to remove the unilaterally cancellation of Settlement deed executed by third respondent in document No.7057/2014 in encumbrance certificate of properties in Survey No.59, Thottipalayam Village, Thiruppur Taluk.



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For Petitioner : Mr.Sudhakar
For Mr.V.P.Karthikeyan

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

For R3 : Mr.K.Vignesh Karthick

ORDER

This Writ Petition has been filed to call for records pertaining to the unilaterally executed cancellation deed, dated 12.04.2014 bearing document No.7057/2014 on the file of second respondent and quash the same and consequently direct the respondents 1 and 2 to remove the unilaterally cancellation of Settlement deed executed by third respondent in document No.7057/2014 in encumbrance certificate of properties in Survey No.59, Thottipalayam Village, Thiruppur Taluk.

2. The case of the petitioner is that the third respondent, who is the mother of the petitioner had settled the house site property ad measuring 344.8 sq.mt., along with the construction made therein, by a Gift Deed dated 17.03.2014 vide document No.2504 of 2014 in favour of the petitioner. Thereafter, the subject property was also handed over to the petitioner and all the revenue records mutated in his favour and he is in possession and enjoyment of the same. However, the third respondent unilaterally cancelled the settlement deed 17.03.2014 by way of Cancellation Deed dated 12.08.2014 registered vide document No.7057 of 2014 on the file of the second respondent. Hence, the petitioner filed this Writ Petition with the above said prayer.

3. Heard Mr.Sudhakar, learned counsel appearing for the petitioner, Mr.M.R.Gokul Krishnan, learned Government Advocate appearing for the respondents 1 and 2 and Mr.K.Vignesh Karthick, learned counsel appearing for the third respondent.



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4. Admittedly, without any notice to the petitioner and without the knowledge of the petitioner the cancellation deed was executed by the third respondent. The Cancellation Deed was executed unilaterally by the third respondent herein and the same was registered by the second respondent. The very registration of the Cancellation Deed is contrary to law, since the second 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 rely 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 *Kanniyan 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 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.



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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 Deed dated 12.08.2014 in document No.7057 of 2014 is declared as null and void. The second respondent is directed to remove the entry of document No.7057 of 2014 from the Encumbrance Certificate in respect of the property. The third respondent is at liberty to challenge the said Settlement Deed dated 17.03.2014, in the manner known to law.



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

Sd/-
Assistant Registrar(CS-IV)

// True Copy //

Sub Assistant Registrar

rts

To

1. The District Registrar,
Office of the District Registrar,
Tiruppur District,
Tiruppur.
2. The Joint Sub-Registrar,
District Registrar Office,
Tiruppur,
Tiruppur District.

W.P.No.24252 of 2014
and M.P.No.1 of 2014

KV(CO)
RLP(24/11/2021)