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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2021

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THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

WP.No.378 of 2014
and
MP.Nos.1 & 2 of 2014

A.Sivagami

...Petitioner

Vs

1. The Inspector General of Registration,
Office of Inspector General of Registration,
Santhome,
Chennai 600 028

2. The Joint Registrar-I,
Office of the District Registrar(South),
Saidapet, Chennai 600 015

3. Vijaya @ A.Vijayalakshmi

...Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the second respondent in registering an instrument of cancellation dated 21.11.2013 executed by the third respondent and registered in document No.11746 of 2013 by the second respondent and quash the same as illegal.

For Petitioner : Mr.S.Senthil Nathan

For Respondents

For R1 & 2 : Mr.M.R.Gokul Krishnan,
Government Advocate

For R3 : Mr.H.Adaikala Arociaraj

ORDER

This writ petition is filed to issue a Writ of Certiorari calling for the records of the second respondent in registering an instrument of cancellation dated 21.11.2013 executed by the third respondent and registered in document No.11746 of 2013 by the second respondent and quash the same as illegal.



2. The petitioner's husband was employed in the Post Trust of India. During his service, his earnings were invested on the properties. Whenever a property was purchased, the petitioner used to purchase in the name of her daughters. Accordingly, the petitioner purchased a property while her daughters were minors. One such property bearing plot No.37 situated at Medavakkam was purchased in the name of the third respondent, when she was just four years old by the registered sale deed dated 28.09.1987. On behalf of the third respondent, the petitioner had signed and executed the document. Thereafter, on 14.07.2008 the third respondent executed settlement deed in favour of the petitioner registered vide document No.4732 of 2008. Pursuant to the settlement deed, the petitioner also executed settlement deed in favour of her grandson dated 22.03.2013. At that juncture, the third respondent unilaterally executed cancellation of settlement deed on 21.11.2013 and registered in the Office of the second respondent without any notice to the petitioner or knowledge to the petitioner.

3. However, the second respondent has no jurisdiction and power to register any unilateral cancellation deed. The issues involved in the writ petition has already been settled by the Hon'ble Full Bench of this Court in the case of Latif Estate Line India Ltd Vs. Hadeeja Ammal reported in 2011 (2) CTC 1, which was subsequently followed by the Division Bench of this Court in WA.No.108 of 2020 dated 24.01.2020, 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.

4. In view of the settled law, this Court has no hesitation to allow the writ petition and the registration of cancellation of settlement deed in doc.No.11746 of 2013 dated 21.11.2013 is hereby quashed. It is also made clear that the cancellation of the said registration will not be a bar for the third respondent to agitate her right before the competent civil court challenging the settlement deed which was originally executed by her in favour of the petitioner.

5. Accordingly, the writ petition is allowed. Consequently, connected miscellaneous petitions are closed. No order as to costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar



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Santhome,
Chennai 600 028
2. The Joint Registrar-I,
Office of the District Registrar (South),
Saidapet, Chennai 600 015

+1cc to Mr.H.Adaikala Arociaraj, Advocate, S.R.No.57398
+1cc to the Government Pleader, S.R.No.57693

WP.No.378 of 2014

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NSK 25/11/2021