



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.17130 of 2014

L.Kalidoss

... Petitioner

Vs

1. The Inspector General of Registration,
Santhome High Road,
Santhome, Chennai 600 028.
2. The District Registrar - Administration,
Office of the District Registrar, Chennai North,
Rajaji Salai, Chennai 600 001.
3. Mr.S.Vasanth Kumar,
The Sub Registrar,
Office of the Sub Registrar, Madhavaram,
Chennai 600 060.

... Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the first and second respondents to conduct an enquiry based on the petitioner's representation dated 07.06.2014.

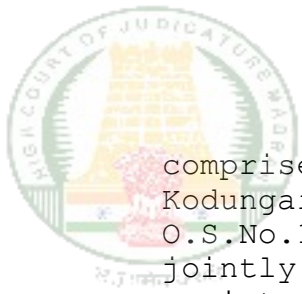
For Petitioner : Mr.T.Sundar Rajan

For Respondents : Mr.M.R.Gokul Krishnan,
1 & 2 Government Advocate

O R D E R

This writ petition has been filed to issue a Writ of Mandamus directing the first and second respondents to conduct an enquiry based on the petitioner's representation dated 07.06.2014.

2. The case of the petitioner is that the property



WEB C

comprised in Old Door No.1, New Door No.1/1, Meenambal Salai, Kodungaiyur, Chennai admeasuring 6028 sq.ft., comprised in O.S.No.177/1, 177/4, 177/14, 177/2A1A, T.S.No.62, Block No.49 jointly purchased by the petitioner and his brother by the registered sale deed dated 19.03.2008 vide Document No.2111 of 2008 on the file of the Sub Registrar Office, Sembium.

3. Thereafter, the petitioner's brother namely L.Muniyandi settled his 1/2 share in the subject property in favour of the petitioner by the settlement deed dated 07.01.2009 registered vide Document No.80 of 2009 on the file of the Sub Registrar Office, Sembium. It is absolute and irrevocable. On the strength of the settlement deed the petitioner availed loan by mortgaging the said property with the Union Bank of India and also by a Memorandum of Deposit of title deeds. The petitioner was also issued patta dated 23.09.2011 for the entire extent of land in pursuant of settlement deed executed in his favour. All the revenue records mutated in his favour. However, his brother L.Muniyandi had cancelled the settlement deed by way of deed of cancellation dated 09.04.2014 and presented for registration before the third respondent and got registered vide Document No.2111 of 2014 on the file of the Sub Registrar Office, Madhavaram.

4. Admittedly, the third respondent did not issue any notice to the petitioner and failed to conduct enquiry before registering the deed of cancellation unilaterally, which was presented by his brother. The third respondent has no power to register the cancellation deed unilaterally presented by the petitioner's brother. In this regard, the issues involved in the writ petition has already been settled by 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 Division Bench of this Court in W.A.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



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.

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-existent 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."



5. In view of the settled law, this Court has no hesitation to allow the writ petition and the deed of cancellation registered vide Document No.2111 of 2014 dated 09.04.2014 is non-est in the eye of law and it is void. Therefore, the second respondent is directed to consider the representation of the petitioner dated 07.06.2014 after issuing notice to the parties to the deed of cancellation dated 09.04.2014 and after giving them opportunity of hearing and thereafter pass orders on merits and in accordance with law to annul the deed of cancellation dated 09.04.2014 within a period of twelve weeks from the date of receipt of a copy of this order.

6. Accordingly, this writ petition is allowed. No order as to costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

rna

To

1. The Inspector General of Registration,
Santhome High Road,
Santhome, Chennai 600 028.
2. The District Registrar - Administration,
Office of the District Registrar, Chennai North,
Rajaji Salai, Chennai 600 001.
3. The Sub Registrar,
Office of the Sub Registrar, Madhavaram,
Chennai 600 060.

+1cc to Mr.K.Surendranath, Advocate, S.R.No.55656

W.P.No.17130 of 2014

RSV(CO)
SU(17/11/2021)