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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.28153 of 2014

and

M.P.Nos.1 and 2 of 2014

S.X.Sabina

... Petitioner

-Vs-

1. The Sub Registrar,
Sriperumpudur Registration Office,
Sriperumpudur,
Kanchipuram District.

2. S.I.Xavier

3. S.Chinnammal

4. S.X.Christy

5. S.X.Clara

6. S.X.Dass

... 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 the records pertaining to the Settlement Cancellation Deed registered as Document No.2185/2003, dated 10.04.2003 on the file of the first respondent and to quash the same and consequently directing the first respondent to delete all entries with regard to Document No.2185/2003 dated 10.04.2003 from all the departmental registers maintained by the first respondent.

For Petitioner : Mr.P.T.Perumal

For R1 : Mr.Yogesh Kannadasan
Special Government Pleader

For R2 to R6 : No Appearance



ORDER

This Writ Petition has been filed for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the Settlement Cancellation Deed registered as Document No.2185 of 2003, dated 10.04.2003 on the file of the first respondent and to quash the same and consequently directing the first respondent to delete all entries with regard to Document No.2185/2003 dated 10.04.2003 from all the departmental registers maintained by the first respondent.

2. Heard Mr.P.T.Perumal, learned counsel appearing for the petitioner and Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the first respondent.

3. The second and third respondents are the parents of the petitioner. They gave birth to two sons and seven daughters. They decided to settle the property in favour of the petitioner and the respondents 4 to 6 herein. Accordingly, they executed an unconditional Settlement Deed, dated 20.03.2003, registered vide Document No.1277 of 2003 on the file of the first respondent. The subject property was also handed over to the settlees along with all the original documents. However, without any notice to the petitioner and the respondents 4 to 6 and without any knowledge, respondents 2 and 3 had unilaterally cancelled the settlement deed, dated 20.03.2003 by the cancellation of settlement deed, dated 10.04.2003, registered vide Document No.2185 of 2003. The first respondent also without any notice to the settlees, mechanically registered the cancellation of settlement deed.

4. The first respondent has no jurisdiction and power to register the cancellation of settlement deed unilaterally without any notice to the settlees.

5. The issues involved in this writ petition had 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



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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.

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 settled law, the settlement of cancellation deed, registered as Document No.2185 of 2003, dated 10.04.2003 is hereby quashed.



7. The learned counsel for the petitioner would submit that the second respondent had died while pending the writ petition. Therefore, the legal heirs of the second and third respondents are at liberty to approach the Civil Court for appropriate relief.

8. In view of the above, this writ petition stands allowed. Consequently, connected Miscellaneous petitions are closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

The Sub Registrar,
Sriperumpudur Registration Office,
Sriperumpudur,
Kanchipuram District.

+1cc to Mr.P.T.Perumal, Advocate, S.R.No.67640
+1cc to the Government Pleader, S.R.No.68306

W.P.No.28153 of 2014

KJ[co]
NSK 04/01/2022