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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.29589, 29599 of 2014

and

M.P.Nos.1, 1 of 2014

1.V.Sindhuja

2.V.Shylaja

...Petitioners in both WP's

Vs

1. The Sub Registrar,  
Sub Registrar's Officer,  
Arani, Thiruvallur District.

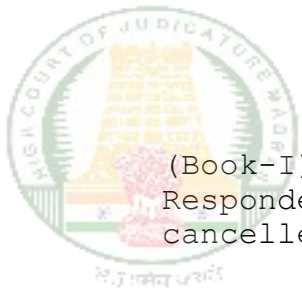
2. V.Vijayakumar ...Respondents in W.P.No.29589 of 2014

1.The Sub Registrar,  
Sub Registrar's Officer,  
Arani, Thiruvallur District.

2.V.Sujatha ...Respondents in W.P.No.29599 of 2014

Prayer in W.P.No.29589 of 2014: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring that the Cancellation Deed dated 24.09.2012 registered as Document No.8789 of 2012 (Book-I) on the file of the Sub Registrar, Arani, the First respondent herein, by which the Settlement Deed executed by the second respondent dated 17.05.2010 and registered as Document No.2861 of 2010 (Book-I) on the file of the Sub Registrar, Arani, the First Respondent herein, covering the Schedule Properties, was cancelled, as null and void and not binding upon the petitioners.

Prayer in W.P.No.29599 of 2014: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring that the Cancellation Deed dated 14.02.2012 registered as Document No.964 of 2012 (Book-I) on the file of the Sub Registrar, Arani, the First respondent herein, by which the Settlement Deed executed by the second respondent dated 24.03.2008 and registered as Document No.1201 of 2008



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(Book-I) on the file of the Sub Registrar, Arani, the First Respondent herein, covering the Schedule Properties, was cancelled, as null and void and not binding upon the petitioners.

|                                          |                                                |
|------------------------------------------|------------------------------------------------|
| For Petitioners<br>in both WP's          | : No Appearance                                |
| For Respondent 1<br>in both WP's         | : Mr.Yogesh Kannadasan,<br>Government Advocate |
| For Respondent 2<br>in W.P.29589 of 2014 | : Mr.M.Rajendiran                              |
| For Respondent 2<br>in W.P.29599 of 2014 | : Mr.T.Arul                                    |

#### O R D E R

The W.P.No.29589 of 2014 is filed to issue a Writ of Declaration, declaring that the Cancellation Deed dated 24.09.2012 registered as Document No.8789 of 2012 (Book-I) on the file of the Sub Registrar, Arani, the First respondent herein, by which the Settlement Deed executed by the second respondent dated 17.05.2010 and registered as Document No.2861 of 2010 (Book-I) on the file of the Sub Registrar, Arani, the First Respondent herein, covering the Schedule Properties, was cancelled, as null and void and not binding upon the petitioners.

2. The W.P.No.29599 of 2014 is filed to issue a Writ of Declaration, declaring that the Cancellation Deed dated 14.02.2012 registered as Document No.964 of 2012 (Book-I) on the file of the Sub Registrar, Arani, the First respondent herein, by which the Settlement Deed executed by the second respondent dated 24.03.2008 and registered as Document No.1201 of 2008 (Book-I) on the file of the Sub Registrar, Arani, the First Respondent herein, covering the Schedule Properties, was cancelled, as null and void and not binding upon the petitioners.

3. The petitioners are the daughters and grand daughters of the second respondent in both writ petitions respectively. The subject property originally owned by one V.Venkat Reddy who died intestate on 17.06.1996 leaving behind his wife Mrs.V.Sujatha, who is the second respondent in W.P.No.29599 of 2014, his son V.Vijayakumar the second respondent in W.P.No.29589 of 2014, V.Udayakumar and his daughter V.Chitra. Therefore, the property owned by the said V.Venkat Reddy devolved equally upon his four legal heirs.



4. Accordingly, the second respondent in both writ petitions inherited 1/4th undivided share in the landed properties. On 17.05.2010, the second respondent in W.P.No.29589 of 2014 executed the registered settlement deed in favour of the petitioner vide Document No.2861 of 2010 (Book-I) on the file of the first respondent. Likewise, the second respondent in W.P.No.29599 of 2014 executed an irrevocable registered settlement deed in favour of the petitioner vide Document No.1201 of 2008 (Book-I) in respect of their 1/4th undivided share.

5. Thereafter, on 17.05.2010 both the settlement deeds were unilaterally cancelled by the cancellation of settlement deed executed by the second respondent in both the writ petitions and both were registered as Document Nos.964, 8789 of 2012 on the file of the first respondent herein. Admittedly, no notice was issued and no enquiry was conducted before the registration by the first respondent. Both the documents were unilaterally cancelled by way of deed of cancellation dated 17.05.2010 by the second respondent in both the writ petitions, thereby cancelled the settlement deed executed by them respectively.

6. However, the first 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. 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 the case of Latif Estate Line India Ltd vs Hadeeja Ammal reported in 2011 (2) CTC 1 cited supra.



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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-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."

7. 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 Document Nos.8789, 964 of 2012 are hereby quashed. It is also made clear that the cancellation of the said registration will not be a bar for the second respondent



herein to agitate their right before the competent civil court challenging the settlement deed which was originally executed by them in favour of the petitioner.

8. Accordingly, these writ petitions are allowed. The second respondent is at liberty to file a Civil Suit. No order as to costs. Consequently, the connected M.P.Nos.1, 1 of 2014 are closed.

Sd/-  
Assistant Registrar

True Copy//

Sub Assistant Registrar

rna

To

The Sub Registrar,  
Sub Registrar's Office,  
Arani, Thiruvallur District.

+1cc to Mr.T.Arul, Advocate, S.R.No.57460  
+1cc to Mr.M.Rajendiran, Advocate, S.R.No.57459  
+1cc to the Government Pleader, S.R.No.57879,57878

W.P.Nos.29589, 29599 of 2014  
and M.P.Nos.1, 1 of 2014

PVS[co]  
NSK 29/11/2021