



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2021

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

WP.No.23640 of 2021

M.Venkatasamy

...Petitioner

Vs

1. The Sub Registrar, Purasavakkam,
No93/1, Bricklin Road, A Block,
Otteri, TVK Nagar,
Purasaiwakkam, Chennai 600 012

2. Padmavathi

3. Mageshwari

...Respondents

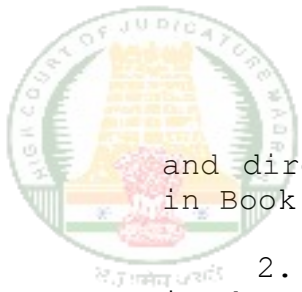
Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration declaring the unilateral cancellation deed dated 16.12.2011 registered as document No.4947 of 2011 and subsequent settlement deed by the second respondent in favour of the third respondent dated 21.12.2011 registered as doc.No.5022 of 2011 in Book 1 maintained on the file of the first respondent is null and void and direct the first respondent to remove the said entries made in Book - I on the file of the first respondent.

For Petitioner : Mr.N.S.Sivakumar

For Respondents
For R1 : Mr.Yogesh Kannadasan,
Government Advocate

ORDER

This writ petition is filed to issue a Writ of Declaration declaring the unilateral cancellation deed dated 16.12.2011 registered as document No.4947 of 2011 and subsequent settlement deed by the second respondent in favour of the third respondent dated 21.12.2011 registered as doc.No.5022 of 2011 in Book 1 maintained on the file of the first respondent is null and void



and direct the first respondent to remove the said entries made in Book - I on the file of the first respondent.

2. The case of the petitioner is that the property comprised in door No.123/1/226 situated at Strahans Road, Otteri, Perambur Barracks, Chennai-12 comprised in survey No.2653 was owned by the petitioner's mother deceased Smt.Samboornamal. In turn, she executed settlement deed absolutely and unconditionally in favour of her five children by the settlement deed dated 06.11.1957 registered vide document No.2525 of 1957. The petitioner was born in the year 1959 and when he was six years old, his father represented as guardian of his three elder sisters and brother, out of love and affection executed an unconditional, irrecoverable, absolute, independent settlement deeds in respect of the subject property in favour of him. The said settlement deed was effected and the petitioner was put in possession and enjoyment as per the settlement deed. After demise of his father on 18.04.1993, the entire revenue records were mutated in favour of the petitioner and the property was assessed to the property tax and other revenue dues. After 46 years from the date of settlement deed, the second respondent executed cancellation of settlement deed and presented for registration. It was registered on 16.12.2011 vide document No.4947 of 2011 on the file of the first respondent. After registration of the unilateral cancellation deed, she executed her share by way of another settlement deed dated 21.12.2011 in favour of the third respondent, who is none other than another sister of the second respondent and registered vide document No.5022 of 2011 on the file of the first respondent. Now only, the petitioner came to understand about the cancellation of settlement deed as well as the settlement deed executed in favour of the third respondent.

3. However, the first respondent has no power or authority to register any unilateral cancellation deed, that too, without notice and without conducting any enquiry. 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



WEB COPY

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.

4. In view of the settled law, this Court has no hesitation to allow the writ petition. Accordingly, this writ petition is allowed and the unilateral cancellation of settlement deed dated 16.12.2011 registered vide document No.4947 of 2011 and the subsequent settlement deed dated 21.12.2011 registered as document No.5022 of 2011 are quashed. It is also made clear that the cancellation of the said registration will not be a bar for the second and third respondents herein to agitate their right



before the competent civil court challenging the settlement deed which was originally executed by the second respondent in favour of the petitioner. No order as to costs.

WEB COPY

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

lok

To

The Sub Registrar, Purasavakkam,
No93/1, Bricklin Road, A Block,
Otteri, TVK Nagar,
Purasaiwakkam, Chennai 600 012

+1cc to M/s.N.S.Sivakumar,, Advocate, S.R.No.57289

+1cc to the Government Pleader, S.R.No.57890

WP.No.23640 of 2021

RGN(CO)
RGA(26/11/2021)