



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

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THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

WP.No.25505 of 2021 and
WMP.Nos.26935 & 26936 of 2021

G.Devi ... Petitioner

Vs

1.The Sub Registrar,
Ashok Nagar,
Chennai

2.Meenakshi

3.Vignesh

... Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relate to the registration of the unilateral cancellation of settlement deed in D.No.782 of 2021 dated 08.03.2021 on the file of the Sub Registrar, Ashok Nagar, executed by petitioner's husband namely R.Ganapathy registered by the first respondent and quash the same and consequently direct the first respondent to remove the connected entries in the register.

For Petitioner : Mr.V.Venkatesan

For Respondents

For R1 : Mr.Yogesh Kannadasan,
Special Government Pleader

ORDER

This writ petition is filed to issue a Writ of Certiorarified Mandamus calling for the records relating to the registration of the unilateral cancellation of settlement deed in D.No.782 of 2021 dated 08.03.2021 on the file of the Sub Registrar, Ashok Nagar, executed by petitioner's husband namely R.Ganapathy registered by the first respondent and quash the same and consequently direct the first respondent to remove the connected entries in the register.



2. Heard, Mr.V.Venkatesan, the learned counsel for the petitioner, and Mr.Yogesh Kannadasan, Special Government Pleader appearing for the first respondent.

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3. The petitioner is the second wife of her husband. Initially her sister got married with her husband and thereafter she died due to accident. Due to love and affection shown to the petitioner, she got married with the sister's husband. The husband of the petitioner settled the property comprised in T.sy.No.52/29 in Block no.62 to an extent of 1250 sq.ft. along with building bearing door No.6/15, Erikarai Street, West Mambalam, Chennai in favour of the petitioner by the registered sale deed dated 02.11.2017 registered vide document No.2911 of 2017. Thereafter, her husband died due to covid-19 on 19.05.2021. When it being so, the second and third respondents who are being issues of the first wife created problem with her peaceful possession and enjoyment of the property. Only thereafter, the petitioner came to understand about the cancellation of settlement deed executed by her husband and the same was registered in document No.782 of 2021 on 08.03.2021. He unilaterally executed cancellation of settlement deed and presented for registration. However, the first respondent without even conducting any enquiry and without issuing any notice to the petitioner, registered the unilateral cancellation of settlement deed executed in favour of the petitioner. The first respondent has no jurisdiction to register the unilateral cancellation of settlement deed.

4. 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



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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.

5. In view of the settled law, this Court has no hesitation to allow the writ petition. Accordingly, this writ petition is allowed and the registration of cancellation of settlement deed in doc.No.782 of 2021 dated 08.03.2021 is hereby 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 petitioner's husband in favour of the petitioner. Consequently, connected miscellaneous petitions are closed. No order as to costs.

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SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

The Sub Registrar,
Ashok Nagar,
Chennai.

+1cc to M/s.V.Raghupathi, Advocate Sr.62506
+1cc to the Government pleader Sr.63438

WP.No.25505 of 2021

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srg 16/12/2021