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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

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THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.6164 of 2017
and
W.M.P.No.6632 of 2017

Surekha

...Petitioner

Vs

1. The District Registrar,
District Registrar Office,
Krishnagiri.

2. The Sub Registrar,
The Sub Registrar Office,
Hosur.

3. Munivenkatamma

4. C.Devaraj

...Respondents

PRAYER:- Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus directing the 1st respondent to cancel the Deed of Cancellation dated 21.07.2016 registered as Document No.11675 of 2016 in the Office of Sub Registrar, Hosur executed by 3rd respondent herein and make relevant entries in the Registration records within the time to be stipulated by this Hon'ble Court.

For Petitioner : Mr.V.Ayyapparaja

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

For Respondent 4 : Mr.G.M.Anantha Kumar

For Respondent 3 : No Appearance-Not ready in Notice



O R D E R

This writ petition is filed to issue a Writ of Mandamus directing the 1st respondent to cancel the Deed of Cancellation dated 21.07.2016 registered as Document No.11675 of 2016 in the Office of Sub Registrar, Hosur executed by 3rd respondent herein and make relevant entries in the Registration records within the time to be stipulated by this Hon'ble Court.

2. The case of the petitioner is that the third respondent is being the father of the petitioner, executed a Settlement deed dated 31.05.2004 in favour of the petitioner in respect of the property to an extent of 2.50 acres in paimash No.93 and 2.34 acres in paimash No.95/1 totaling 4.84 acres situated in Chennasandiram Village, Hosur Taluk, Krishnagiri District. Thereafter, the petitioner's father namely C.Duraisamy died on 14.11.2015 leaving behind his wife and his five daughters.

3. While being so, it is alleged that the third respondent's brother C.Devaraj clandestinely brought the third respondent to the Registrar Office and cancelled the settlement deed by the deed of cancellation dated 21.07.2016 registered as Document No.11675 of 2016 in the office of Sub Registrar, Hosur. The settlement deed dated 31.05.2004 is irrevocable. The possession of the property is also handed over immediately after the execution of settlement deed and after the demise of the said C.Duraisamy, the petitioner and the other legal heirs are in possession and enjoyment of the same.

4. In fact, after the death of the petitioner's father some of the daughters relinquished their right and executed the release deed in favour of the petitioner dated 25.07.2016 registered vide Document No.11802 of 2016. Therefore, the unilateral deed of cancel is bad and non-est in the eye of law. In fact, the petitioner also sent a representation to the first and second respondents to cancel the deed of cancellation dated 21.07.2016.

5. After registering the document, no authority has power to cancel the registration of document. The Civil Court alone can set aside the registered document. The second respondent has no power to register the cancellation deed that too presented unilaterally. Therefore, the deed of cancellation dated 21.07.2016 registered vide Document No.11675 of 2016 on the file of the Sub Registrar, Hosur is hereby declared as bad and non-est in the eye of law. In this regard, it is relevant to relied upon the Judgment reported in 2017(2) CWC 796 dated 31.07.2017 P.A.G.Kumaran -vs- Inspector General of Registration held as follows:



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before the civil forum. This Court cannot render any finding based on the disputed questions of fact, as the parties will have to let in evidence.

16. In view of the fact that the unilateral cancellation of the settlement deed made by the first and second respondents is bad, this Court declares that the said cancellation of document, namely Deed of Cancellation of Settlement deed, registered as Document No.3328 of 2014, dated 10.11.2014, is illegal and in view of the same, the first and second respondents are directed to remove the entries in the Register and the subsequent transaction, namely settling the property in favour of the son of the third respondent, made pursuant to the unilateral cancellation of settlement deed, is also null and void. All the entries have got to be removed and this has got to be done within one month from the date of receipt of a copy of this order. This Court makes it clear that this order will not prevent the third respondent from approaching the Civil Court and establish her right over the property in question and if done, the Civil Court shall decide the matter without being influenced by any of the observations made in this writ petition touching on the merits of the matter. As this Court has held that the cancellation of settlement deed is illegal and without jurisdiction, and declared the same as null and void, if any suit is filed, the same has got to be decided by the Civil Court in accordance with law, including the issue of limitation. If the third respondent goes before appropriate forum with regard to the cancellation of settlement deed, which is the subject matter of this Writ Petition, this Court expects that the said civil forum to decide the matter as expeditiously as possible, from the date of initiation of such suit, and the matter shall not be adjourned beyond seven working days at any point of time. The petitioner shall co-operate in the trial if such suit is filed."

6. The Cancellation of Settlement Deed dated 21.07.2016 vide Document No.11675 of 2016 is hereby set aside. The second



respondent is directed to correct the entries in the encumbrance register and all the relevant records. In view of the legal principles settled in the above Judgment, unilaterally cancellation of settlement deed is contrary to law. However, the third and fourth respondents are at liberty to challenge the settlement deed before the Civil Court in the manner known to law.

7. Accordingly, this writ petition is allowed. No order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The District Registrar,
District Registrar Office,
Krishnagiri.
2. The Sub Registrar,
The Sub Registrar Office,
Hosur.

+1cc to M/s.R.Bharathkumar, Advocate, S.R.No.46740

+1cc to the Government Pleader, High Court, Madras S.R.No.46872

W.P.No.6164 of 2017
and
W.M.P.No.6632 of 2017

SJ(CO)
RGA(27/10/2021)