



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.07.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.11383 of 2021

WEB COPY

C.Sam Bennet Satheesh

...Petitioner

Vs.

1. The Inspector General of Registration,
110, Santhom High Road,
Raja Annamalaipuram, Chennai-600 028.

2. The District Registrar (Administration),
Marthandam, Kanyakumari District.

3. The Sub Registrar,
Thiruvattar, Kanyakumari District.

4. P.Sudhaharan Nair

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, to declare the deed of cancellation dated 09.09.2020 registered as document No.2688/2020, on the file of the third respondent as null and void and non-est in law and direct the second and third respondents to remove the entries in the register made pursuant to the unilateral cancellation of the pathway agreement.

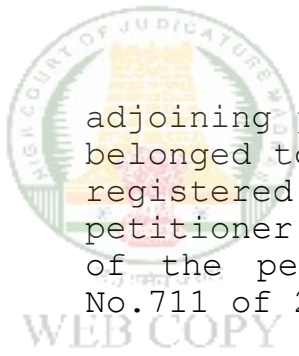
For Petitioner : Mr.C.T.Perumal
For R-1 to R-3 : Mr.R.Sureshkumar,
Government Advocate

ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 03.03.2021 to the extent that the second respondent, having held the unilateral cancellation of the document to be illegal, directed the petitioner to approach a Civil Court for the cancellation of the document. Therefore, the petitioner is seeking for a declaration to declare the deed of cancellation dated 09.09.2020 as non-est in the eye of law.

2. Heard Mr.C.T.Perumal, learned counsel appearing for the petitioner and Mr.R.Sureshkumar, learned Government Advocate appearing for the respondents 1 to 3.

3. The case of the petitioner is that the subject property in P.S.No.417/1A6B, measuring an extent of 9.625 cents and the



adjoining piece of land measuring an extent of 53 cents originally belonged to the father of the petitioner, as per the partition deed, registered as Document No.352/1979. The further case of the petitioner is that his father executed a settlement deed in favour of the petitioner and the same was also registered as Document No.711 of 2016.

4. It is stated that the land comprised in R.S.Nos.417/4B and 417/1B is a pathway and it was enjoyed in common. The fourth respondent and the petitioner entered into an agreement to enjoy the pathway in common and this document dated 21.03.2018 was also registered on the file of the third respondent in Document No.823 of 2018. Pursuant to the same, the petitioner was also enjoying the pathway in order to access his own properties.

5. It is alleged by the petitioner that the fourth respondent unilaterally cancelled the agreement on 09.09.2020 and submitted the same for registration before the third respondent and the document was also registered.

6. Aggrieved by the same, the petitioner gave a complaint / application before the second respondent on 03.10.2020 seeking for setting aside the registration of the document that was entertained by the third respondent, wherein, the agreement was unilaterally cancelled. The second respondent conducted an enquiry by issuing notice to the petitioner and the third and fourth respondents. Ultimately, an order came to be passed by the second respondent on 03.03.2021, wherein, it was categorically held that the unilateral cancellation is illegal and it is opposed to the Judgment of this Court and hence, must be cancelled. However, the second respondent, after giving such a finding, directed the petitioner to approach a Civil Court and seek for the cancellation of the document. Aggrieved by the same, the present Writ Petition has been filed before this Court seeking for appropriate directions.

7. In the considered view of this Court, the second respondent, after affording opportunity to both sides and after considering the facts and circumstances of the case and the law on the issue, has come to the correct conclusion that the unilateral cancellation of the agreement is illegal and hence, it requires interference. After having held so, there is no purpose in sending the petitioner to a Civil Court to get the document cancelled.

8. Once the second respondent has held that the very registration of the document is bad in the eye of law, it will be enough, if the order is entered in the relevant register and it is reflected in the Encumbrance Certificate with a footnote recording the order passed by the second respondent. Once this is done, the earlier entry made while registering the document through which the agreement was unilaterally cancelled, will automatically stand



Civil Court and waste his time.

9. In view of the above discussion, there shall be a direction to the third respondent to make necessary entry in the relevant register / index by recording the order passed by the second respondent on 03.03.2021. similarly, the order passed by the second respondent shall also be reflected in the Encumbrance Certificate with a footnote. This process shall be completed by the third respondent within a period of four (4) weeks from the date of receipt of a copy of this order.

10. In the result, the Writ Petition stands allowed with the above directions. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Inspector General of Registration,
110, Santhom High Road,
Raja Annamalaipuram, Chennai-600 028.
2. The District Registrar (Administration),
Marthandam, Kanyakumari District.
3. The Sub Registrar,
Thiruvattar, Kanyakumari District.

+1 CC to M/s.C.T.PERUMAL, Advocate (SR-21618[F] dated 08/07/2021)

+1 CC to M/s.SPL GP (SR-21943[F] dated 09/07/2021)

W.P. (MD)No.11383 of 2021
Dated 08.07.2021

RC (15.07.2021) 3P-6C