



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2021

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.3852 of 2014

A.Annamalai Chettiar

... Petitioner

Vs.

1.The Sub Registrar,
Registration Department,
Devakottai,
Sivagangai District.

2.A.Valliappan @ Palaniappan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to cancel the registration of document No.877 of 2013 on the file of the first respondent cancelling the settlement deed dated 08.02.2007 executed by the second respondent in favour of the first respondent and registered as document No.390 of 2007.

For Petitioner : Mr. S.Muthu Raman

For R1 : Mr.J.John Rajadurai
Government Advocate

For R2 : No appearance

ORDER

The property in Door No.40A,B,C,D, measuring 18791 Sq.ft along with the building, and also water connection, electricity connection in Pala.A.Street, Devakottai, Karaikudi, had been originally settled by the second respondent Valliappan @ Palaniappan, S/o.Annamalai Chettiar in favour of the petitioner A.Annamalai Chettiar, S/o.Muthu K.A.L.A.Annamalai Chettiar, by a registered document dated 08.02.2007 and registered as Document No.390/2007 in the Sub Registrar Office at Devakottai. The said property has been given as security for the loan obtained from the Bank of India, Saibaba Colony Branch, Coimbatore-641 011. The bank actually advanced a loan on the basis of the said settlement deed. The petitioner is the borrower of the loan.



2. It is to be noted that Bank of India has not been shown as a party in this writ petition. Subsequently, for reasons best known to the second respondent, another document had been executed namely an unilateral deed of cancellation on 28.02.2013 which had been registered as document No.877/2013 in the very same Sub Registrar Office at Devakottai. The legality of the unilateral cancellation of the settlement deed is not examined by me since it is not within the scope of this writ petition.

3. The present writ petition has been filed in the nature of Writ of Mandamus seeking a direction against the first respondent Sub Registrar, Devakottai, to cancel the said cancellation of settlement deed document. This Court cannot give any such direction. The only way available for the petitioner is to file a Civil suit in this regard. The second respondent will have to be given an opportunity to explain as to why he granted the settlement in favour of the petitioner and why he had taken a decision to cancel the settlement deed. Whether such cancellation is lawful or not, it is a matter to be examined only by the Civil Court. The reasons stated by the second respondent will have to be tested during cross examination by the petitioner. These all are aspects which can be undertaken only by a Civil Court. The petitioner has also, for reasons best known to him, not shown Bank of India as a party in the Writ Petition. The relief sought by the petitioner cannot be granted by this Court.

4. The learned counsel for the petitioner stated that the cancellation of settlement deed itself is not proper. That document however being registered, will have to be the subject matter of an independent proceedings. Facts will have to be recorded regarding the nature and circumstances surrounding such cancellation. Thereafter a decision will have to be given. Such decision can be given only in a Civil Court proceeding and not by a Writ Court.

5. Accordingly this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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



To

1.The Sub Registrar,
Registration Department,
Devakottai,
Sivagangai District.

+1 CC to M/s.S.MUTHU RAMAN, Advocate (SR-37859[F] dated
08/12/2021)

+1 CC to M/s.SPL GP (SR-37918[F] dated 09/12/2021)

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MGJ(04.01.2022) 3P 4C