



W.A.Nos.1356 & 1357 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2022

CORAM+

THE HONOURABLE Mr.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE Mr.JUSTICE KUMARESH BABU

W.A.Nos.1356 & 1357 of 2018
and CMP.Nos.10814 & 10815 of 2018

1.M.Raghavan

... Appellant in both Writ Appeals

Vs

1.The Inspector General of Registration
Santhome High Road
Mylapore, Chennai - 600 004.

2.The Sub Registrar
Suramangalam
Salem District.

3.Gurunadhi Ammal

... Respondents 1 to 3 in both W.As

4.Thanikaivel

... 4th Respondent in W.A.No.1356/2018

5.M.Prabakar

... 4th Respondent in W.A.No.1357/2018



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Common Prayer : Writ Appeals filed under Clause 15 of Letter Patent praying to set aside the order dated 15.04.2016 in W.P.Nos.11036 and 11037 of 2016 passed by this Court.

For Appellant : Mr.P.Tamilavel
(in both WAs)

For Respondents : Mr.M.Vijay Anand
Additional Government Pleader for R1
Mr.Vadivelu Deenadayalam
Additional Government Pleader for R2
Mr.P.Rajavel for R3
Mr.P.Nethaji for R4

COMMON JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN.J]

The appellant (4th respondent in W.P.Nos.11036 and 11037 of 2016) is aggrieved by the common order of this Court made in W.P.Nos.11036 and 11037 of 2016 dated 15.04.2016, in and by which, this Court had allowed the writ petitions filed by the writ petitioners.

2. The facts leading to the filing of the writ petitions are as follows :

- The third respondent who is the grandmother of the appellant



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as well as the fourth respondent in both the writ appeals had executed settlement deeds dated 27.05.2013 registered as Document Nos.3574/2013 and 3572/2013. Thereafter, the third respondent on 20.06.2014 executed two cancellation deeds cancelling the settlement deeds executed by her in favour of the writ petitioners and those two cancellation documents were registered as Document Nos.3561/2014 and 3562/2014 on the file of Sub Registrar, Suramangalam. Thereafter, the third respondent executed a settlement deed in favour of the appellant vide Document No.4900 of 2015 on 20.08.2015.

- Contending that the cancellation deeds are invalid in view of the decision of the Hon'ble Full Bench of this Court in ***M/s.Latif Estate Line India Ltd. Vs. Mrs.Hadeeja Ammal and others*** reported in 2011 (2) CTC 1, both the appellant and the fourth respondent in these appeals filed W.P.No.11036/2016 and W.P.No.11037/2016 respectively seeking a Writ of Certiorarified Mandamus to cancel the cancellation documents and consequently direct the second respondent to remove the entries in the encumbrance



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certificates. Relying upon the judgment of the Hon'ble Full Bench in *Latif Estate Line case* and the judgment in *D.V.Loganathan v. The Sub Registrar, Pallavaram, Chennai* reported in *2014 (3) CTC 113*, this Court had allowed the writ petitions.

- Aggrieved by the order passed in the writ petitions, the appellant/fourth respondent in both WPs preferred these appeals.

3. Mr.P.Tamilavel, learned counsel appearing for the appellant would vehemently contend that the documents are not unilateral cancellations. He would also contend that the writ petitions are not maintainable in view of the judgment of the Hon'ble Supreme Court in *Satya Pal Anand v. State of Madhya Pradesh and Others* reported in *(2016) 10 SCC 767*.

4. Contending contra, the learned counsel for the fourth respondent in both the writ appeals /writ petitioners would submit that the first contention of the appellant that the document is bilateral is bereft of any materials. The circumstances that is relied upon by the appellant to contend that the



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documents are bilateral is that the settlee under the documents of the year 2013 have attested the cancellation documents. Therefore, they have acquiesced to the conduct of the third respondent in cancelling the settlement.

5.1 In fact, the settlement deeds executed by the third respondent in favour of the writ petitioners herein have been cancelled and the settlee under the settlement deeds which are cancelled, have not attested the cancellation deeds. It is actually the brother of the settlee who had attested the cancellation deed, i.e., in the cancellation deed cancelling the settlement executed in favour of the writ petitioner in W.P.No.11036/2016, his brother, the writ petitioner in W.P.No.11037/2016 has attested the same, and vice versa. Therefore, there is no question of acquiescence or estoppel by attestation since the parties to the settlement deed had not attested the cancellation. Even assuming the settlee under the documents had attested the cancellation of the documents, principle of estoppel by attestation would not apply and make it a bilateral instrument. We therefore reject the first contention of the learned counsel for the appellant.

5.2 As regards the second contention on the maintainability of the writ petitions, the learned counsel for the appellant would rely upon the judgment



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of the Hon'ble Supreme Court in ***Satya Pal Anand v. State of Madhya Pradesh and Others.*** In ***Satya Pal Anand*** case, the Supreme Court had considered a claim for cancellation of a document which is properly presented for registration and held that such a cancellation could not be done in a writ petition and the remedy is to go before the civil Court. The Full Bench of this Court in ***Sasikala Vs. Revenue Divisional Officer and Another***, after considering the judgment of the Hon'ble Supreme Court in ***Satya Pal Anand*** held that the writ petitions would lie if a document which ought not to have been registered, has been registered by the Registrar. While doing so, the Hon'ble Full Bench has observed as below :

*'58. From the discussions and conclusions we have reached above with reference to various provisions of statutes and precedents, we reiterate the dictum of Hon'ble Supreme Court in **Thota Ganga Laxmi v. Government of Andhra Pradesh**, reported in (2010) 15 SCC 207 and the Full Bench of this Court in **Latif Estate Line India Ltd.**, case reported in AIR 2011 Mad 66 and inclined to follow the judgment of three member Bench of Hon'ble Supreme Court in **Veena Singh's** case reported in (2022) 7 SCC 1 and the judgment of two member Bench of Hon'ble Supreme Court in **Asset Reconstruction Company (India) Ltd.**, case reported in 2022 SCC OnLine SC 544 for the following propositions :*

(a) A sale deed or a deed of conveyance other than



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testamentary dispositions which is executed and registered cannot be unilaterally cancelled.

(b) Such unilateral cancellation of sale deed or a deed of conveyance is wholly void and non est and does not operate to execute, assign, limit or extinguish any right, title or interest in the property.

(c) Such unilateral cancellation of sale deed or deed of conveyance cannot be accepted for registration.

(d) The transferee or any one claiming under him or her need not approach the civil Court and a Writ Petition is maintainable to challenge or nullify the registration.'

In view of the above decision of the Hon'ble Full Bench of this Court in ***Sasikala Vs. Revenue Divisional Officer and Another [2022 SCC OnLine Mad 4343]***, we do not think that the second contention raised by the learned counsel for the appellant regarding maintainability of the writ petitions could also be accepted.

6. In the result, the writ appeals fail and accordingly both the writ appeals stand dismissed. No costs. Consequently, connected miscellaneous



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petitions are closed.

[RSMJ] [KBJ]
26.09.2022

Index : Yes / No
Speaking order / Non-speaking order
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To:

1.The Inspector General of Registration
Santhome High Road
Mylapore, Chennai - 600 004.

2.The Sub Registrar
Suramangalam
Salem District.



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