



W.P.No.25421 of 2015

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 20.10.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**W.P.No.25421 of 2015**

**And**

**M.P.No.1 of 2015**

Nagoor Gani  
Rep. by his Power Agent  
Mrs.N.Shamsunissa

... Petitioner

**Vs.**

1.The Sub – Registrar,  
Office of Sub – Registrar Padappai,  
Kancheepuram District.

2.Habib Abdul Latif  
Rep. by its Power Agent  
M/s.Latif Estate Line India Limited

... Respondents

**Prayer:**

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the Cancellation Deed dated 20.08.2007 registered as Document No.6240 of 2007 on the file of the first respondent and quash the same.

For Petitioner : Mr.R.Ganesh Kumar  
For Respondents : Mr.G.Krishna Raja for R1  
Additional Government Pleader  
Mr.R.Gopinath for R2



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## **ORDER**

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari to call for the records of the Cancellation Deed dated 20.08.2007 registered as Document No.6240 of 2007 on the file of the first respondent and to quash the same.

2.The case of the petitioner is that the petitioner's husband purchased an extent of 2400 sq.ft. of land in Plot No.431 in S.No.16/1A/2C of Manimangalam Village, Sriperumbudur Taluk, Kancheepuram District vide sale deed dated 04.02.2002 registered as document no.213/2002 on the file of the first respondent, through the second respondent. Since the petitioner's husband is working in Saudi Arabia, they were not able to mutate the revenue records immediately. Thereafter, when they applied for encumbrance certificate, they found that the second respondent had unilaterally cancelled the sale deed executed in favour of her husband vide cancellation deed dated 20.08.2007 registered as document no.6240/2007 on the file of the first respondent. Hence, this writ petition.



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3.The learned counsel appearing for the petitioner submitted

that the issue involved in this writ petition is no longer *res integra* and it has already been considered by the Hon'ble Full Bench of this Court in the decision reported in **(2011) 2 CTC 1 [M/s.Latif Estate Line India Ltd. Vs. Hadeeja Ammal]**.

4.The learned counsel appearing for the second respondent did not dispute the facts submitted by the learned counsel appearing for the petitioner.

5.The issue involved in this writ petition is no longer *res integra* and it has already been considered by the Hon'ble Full Bench of this Court in the decision reported in **(2011) 2 CTC 1 [M/s.Latif Estate Line India Ltd. Vs. Hadeeja Ammal]**, the relevant portion of which reads as follows:

**"59. After giving our anxious consideration on the questions raised in the instant case, we come to the following conclusion: -**

**(i) A deed of cancellation of a sale unilaterally executed by the transferor does not create, assign, limit or**



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***extinguish any right, title or interest in the property and is of no effect. Such a document does not create any encumbrance in the property already transferred. Hence such a deed of cancellation cannot be accepted for registration.***

***(ii) Once title to the property is vested in the transferee by the sale of the property, it cannot be divested unto the transferor by execution and registration of a deed of cancellation even with the consent of the parties. The proper course would be to re-convey the property by a deed of conveyance by the transferee in favour of the transferor.***

***(iii) Where a transfer is effected by way of sale with the condition that title will pass on payment of consideration, and such intention is clear from the recital in the deed, then such instrument or sale can be cancelled by a deed of cancellation with the consent of both the parties on the ground of non-payment of consideration. The reason is that in such a sale deed, admittedly, the title remained with the transferor.***

***(iv) In other cases, a complete and***



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***absolute sale can be cancelled at the instance of the transferor only by taking recourse to the Civil Court by obtaining a decree of cancellation of sale deed on the ground inter alia of fraud or any other valid reasons."***

6.Applying the ratio laid down in the decision cited supra, this Court is inclined to grant the relief sought for in this writ petition. The writ petition is accordingly allowed. However, liberty is granted to the second respondent to work out the remedy before the competent civil Court in the manner known to law. No costs. Consequently, the connected miscellaneous petition is closed.

**20.10.2022**

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The Sub – Registrar,  
Office of Sub – Registrar Padappai,  
Kancheepuram District.

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**M.DHANDAPANI,J.**  
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