



W.P.No.31140 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.31140 of 2015

P.Palanisamy

... Petitioner

Vs.

1.The Inspector General of Registration,
Santhome,
Chennai.

2.The District Registrar,
Tiruppur,
Tiruppur District.

3.The Joint Sub Registrar No.2,
Tiruppur,
Tiruppur District.

4.P.Papanayakar

5.Ponammal

6.R.Gopal

7.R.Devivasigamani

8.R.Sampath

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to unilateral cancellation of settlement deed dated 18.05.2012 bearing Document No.2038/2012 on the file of third respondent and quash



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the same.

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For Petitioner : Mr.K.Myilsamy

For Respondents : Mr.G.Krishna Raja for R1 to R3
Additional Government Pleader
Mr.Mukunth for R4
for M/s.Sarvabhauman Associates
R5 – No Appearance
Mr.C.V.Vijayakumar for R6 to R8

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for the records pertaining to unilateral cancellation of settlement deed dated 18.05.2012 bearing Document No.2038/2012 on the file of third respondent and to quash the same.

2.The case of the petitioner is that the fourth respondent is the father of the petitioner and he settled the property purchased by him in favour of the petitioner vide unconditional and irrevocable settlement deed dated 07.01.2011. Thereafter, the petitioner's father, unilaterally cancelled the settlement deed executed in favour of the petitioner. Hence, this writ petition.

3.The learned counsel appearing for the petitioner submitted



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that the issue involved in this writ petition has already been considered

by the Hon'ble Full Bench of the Madurai Bench of this Court in ***W.P.(MD).Nos.6889 of 2015 etc., batch, dated 02.09.2022 [Sasikala Vs. The Revenue Divisional Officer cum Sub Collector, Devakottai, Sivagangai District]*** and has categorically held that unilateral cancellation of a document is impermissible in law.

4.The learned counsel appearing for the fourth respondent submitted that the Hon'ble Full Bench of the Madurai Bench of this Court held that unilateral cancellation of a document is invalid, however, the document is still intact and it has to be decided before the competent civil Court. Hence, this Court may grant liberty to the fourth respondent to approach the competent Civil Court challenging the settlement deed.

5.Heard the arguments advanced on either side and perused the materials available on record.

6.The issue involved in this writ petition is no longer *res integra*



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and it has already been considered by the Hon'ble Full Bench of the Madurai Bench of this Court in ***W.P.(MD).Nos.6889 of 2015 etc., batch, dated 02.09.2022 [Sasikala Vs. The Revenue Divisional Officer cum Sub Collector, Devakottai, Sivagangai District]***, the relevant portion of which reads as follows:

*"44.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 and Ors. -vs- Government of Andhra Pradesh & Ors.**, 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 On-line SC 544 for the following propositions:*

(a)A sale deed or a deed of conveyance other than testamentary dispositions which is executed and registered cannot be unilaterally cancelled.



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(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.

(e)However, an absolute deed of sale or deed of conveyance which is duly executed by the transferor may be cancelled by the Civil Court at the instance of transferor as contemplated under Section 31 of Specific Relief Act.

(f)As regards gift or settlement deed, a deed of revocation or cancellation is permissible only in a case which fall under Section 126 of Transfer of Property Act, and the Registering Authority can accept the deed of cancellation of gift for registration subject to the conditions specified in para 42 of this judgment.

(g)The legal principles above stated by us cannot be applied to cancellation of Wills or



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power of Attorney deed which are revocable and not coupled with interest.

45.As a result of our forgoing conclusions, we answer the reference by holding that the Registrar has no power to accept the deed of cancellation to nullify the deed of conveyance made earlier, when the deed of conveyance has already been acted upon by the transferee. Since anyone may try to mislead or misinterpret our judgment by referring to the question of reference we insist that our answer to the reference should be understood in the light of our conclusions summarised in the previous paragraph.”

7.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. The impugned Document No.2038/2012 dated 18.05.2012 on the file of third respondent is set aside. However, liberty is granted to the fourth respondent to work out the remedy in the manner known to law. No costs.

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

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M.DHANDAPANI,J.
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