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1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2022

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THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.33581 of 2015
and M.P.No.1 of 2015

T.Valli

... petitioner

-Vs-

1. The Joint Sub Registrar,
Office of Guduvancherry SRO,
Guduvancherry, Chennai.

2. T.Kannaamani
W/o.Thambiran Naicker

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, for issuance of Writs of Certiorarified Mandamus calling for the records of the first respondent in relation to registration of the cancellation deed Doc.No.4647/2014 dated 03.04.2014 executed by the second respondent and quash the same as illegal and unlawful and consequently, direct the first respondent to annul the registration of the cancellation deed Doc. No.4647/2014 dated 03.04.2014 on the file of the first respondent executed by the second respondent and delete the entries with regard to the above said deed from the A Register maintained by the first respondent.

For petitioner : Mr. V.Subramanian

For Respondents : Mr. E.Vijay Anand, AGP

**ORDER**

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This petition has been filed seeking to quash the cancellation deed Doc.No.4647/2014 dated 03.04.2014 executed by the second respondent and consequently, direct the first respondent to annul the registration of the cancellation deed Doc. No.4647/2014 dated 03.04.2014 executed by the second respondent and delete the entries with regard to the above said deed from the A Register maintained by the first respondent.

2. It is the case of the petitioner that the second respondent, who is the petitioner's mother, the co-owner of the property comprised in Natham Survey No.134/1A1 part, New S.No.488/3, Natham Patta No.239, No.12, Unamancheru Village, Chengalpattu Taluk, Kancheepuram District, ad-measuring an extent of 8181 sq. ft. The second respondent had attained her 1/4th share i.e. 2180 sq.ft.s. By way of oral partition between her husband and sons, who is the petitioners father and brothers, as the same was ancestral proper. Subsequently, the second respondent, out of love and affection, had executed a settlement deed in favour of the petitioner and his sister, which was registered as document No,9614/2012 dated 23.08.2012 in the office of the Joint Sub-Registrar, Guduvancherry ad-measuring to an extent of 2180 sq. fts. Thereafter, the petitioner is in possession



and enjoyment of the property. While so, without any reason, the second respondent unilaterally cancelled the settlement deed vide document No.4647 of 2014 dated 03.04.2014. Challenging the said unilateral cancellation of the settlement deed, the petitioner has filed the present writ petition.

3. The learned counsel appearing for the petitioner submitted that the settlement in favour of the petitioner is true and the same cannot be revoked. The first respondent has no authority to entertain fore registration of the alleged cancellation of settlement deed. Further it is submitted that the very same issue was decided by the Hon'ble Full Bench of this Court in a batch of Writ Petitions in ***W.P.Nos.6889/2020 and etc., batch vide order dated 02.09.2022 (Sasikala Vs. The Revenue Divisional Officer cum Sub Collector, Devakottai, Sivagangai District and another)***, wherein this Court held that the unilateral cancellation is impermissible. In view of the said Full Bench Judgment, this Court may set aside the unilateral cancellation executed by the petitioner's wife.

4. Admittedly the petitioner's mother settled the property in favour of the petitioner and his sister in the year 2012 vide Settlement Deed dated 23.08.2012 and subsequently the same was cancelled in the year 2015.



Challenging the same, the petitioner is before this Court. However this Court is of the opinion that ***the Full Bench of this Court, vide order dated 02.09.2022 in W.P. No.6889/2020, etc., Batch***, while considering an identical issue, held as under:

*"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.*
- (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*



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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 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."

5. Considering the categorical finding of the Full Bench of this Court in the above cited decision as the present petition being on the identical issue, the order passed in the aforesaid case is squarely attracted to the present petition as well and hence, this Court is inclined to allow this writ petition. Accordingly, this Writ Petition is allowed and the unilateral cancellation of Settlement Deed



registered by the first respondent dated 03.04.2014 is declared as null and void and the revenue official are directed to mutate the revenue records in favour of the petitioner as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is also closed.

28.11.2022

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Index:yes/No

Internet:yes/no

To

The Joint Sub Registrar,
Office of Guduvancherry SRO,
Guduvancherry, Chennai.



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7



M.DHANDAPANI.,J.

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W.P.No.33581 of 2015

28.11.2022