



W.P.No.5193 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.10.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.5193 of 2015
and M.P.No.1 of 2015

K.Asaimani

..Petitioner

Vs.

- 1.State of Tamil Nadu
rep.by Inspector General for Registration,
Santhome High Road,
Mylapore, Chennai.
- 2.The District Registrar,
Krishnagiri, Krishnagiri District.
- 3.The Sub Registrar,
Kaarimangalam,
Palacode Taluk,
Dharmapuri District.

4.Amsaveni

...Respondents

Prayer:Writ petition has been filed under Article 226 of the Constitution of India to issue a Writ of Declaration to declare that the cancellation of Settlement Deed registered by the 3rd respondent dated 30.3.2012 registered as Doc. No.616 of 2012 as null and void and without jurisdiction.



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For Petitioner : Mr.T.L.Thirumalaisamy
For R1 and 3 : Mr.G.Krishnaraja
Additional Government Pleader
For R4 : No appearance

ORDER

This petition has been filed for issuance of writ of Declaration to declare that the cancellation of Settlement Deed registered by the 3rd respondent dated 30.3.2012 as null and void

2. The case of the petitioner is that the petitioner is residing at MGG-580, Part-10, Royagottai HUDCO, Hosur 635 109, Krishnagiri District and his father was the absolute owner of 2 acres of punja lands situated at Pegarahalli Village, Palacode Taluk, Dharmapuri District, comprised in S.F.No.222/1, 222/4A1 and 222/4A2 and the same was settled in favour of the petitioner by a registered Deed of Settlement dated 21.09.2004 and thereafter, the petitioner took possession of the property and patta was also issued in his favour. While so, the 4th respondent, who is the petitioner's sister claim that she is the absolute owner of the property by virtue of a Settlement Deed dated 12.04.2012. Thereafter on



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verification, the petitioner came to know that the Settlement Deed dated 21.09.2004, executed in favour of the petitioner, was cancelled by a Deed of Cancellation dated 30.03.2012. Immediately, the petitioner has made repeated representations to the respondents 1 to 3 to cancel the Deed dated 30.03.2012, however the said officials directed the petitioner to approach the appropriate forum for cancellation of the above documents. Hence, the petitioner has filed O.S.No.168/2012 on the file of the District Munsif Court, Palacode, for declaration to declare that the petitioner is the absolute owner of the property based on the Settlement Deed dated 21.09.2004 and to declare that the Cancellation of Settlement Deed dated 30.03.2012 and subsequent Settlement Deed dated 12.04.2012 are null and void and the said Suit was decreed in favour of the petitioner and aggrieved by the same, the 4th respondent has preferred A.S.No.66 of 2014 on the file of the Sub Court, Dharmapuri. However, the petitioner aggrieved by the unilateral cancellation, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner submitted that



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apart from filing the writ petition, the petitioner has also filed a Suit in O.S.No.168/2012 and the said Suit was decreed on 03.01.2014 in favour of the petitioner, against which the 4th respondent has preferred the appeal in A.S.No.66 of 2014 and subsequently the same was transferred to the Sub Court, Palladam and renumbered as A.S.No.44 of 2017 and the same was dismissed on 08.03.2018 and further 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, 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 father, who passed away subsequently.

4. Though notice was served on the private respondent and his name appeared in the cause list, no one has entered appearance on behalf of him. This Court considering the pendency of this issue, is inclined to dispose of the matter based on the available records.



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5. Admittedly the petitioner's father settled the property in favour of the petitioner in the year 2004 vide Settlement Deed dated 21.09.2004 and subsequently the same was cancelled in the year 2012 and thereafter settled the properties in favour of the private respondent. Challenging the same, the petitioner also approached the competent Civil Forum by way of Suit and the Suit was also decreed in favour of him. Further 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



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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.

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

45.As a result of our forgoing conclusions, we answer the



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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.

6. 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 further considering the decretal order in favour of the petitioner, 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 3rd respondent dated 30.03.2012 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 closed.



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To

- 1.The Inspector General for Registration,
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- 2.The District Registrar,
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- 3.The Sub Registrar,
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M.DHANDAPANI.,J.

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