



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	PRONOUNCED ON
20.06.2022	23.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NOS.14872 OF 2022 & 2063 OF 2017

AND

W.M.P.NOS.14075 OF 2022 & 2048 OF 2017

R.Sriraman

... Petitioner in
W.P.No.14872 of 2022

P.Arun

... Petitioner in
W.P.No.2063 of 2017

.Vs.

The Sub Registrar,
Anna Nagar,
Integrated Sub Registrar Offices Campus,
No.576, Mogappair West,
Ambattur Industrial Estate,
Chennai - 37.

... Respondent in
W.P.No.14872 of 2022

1. The Inspector General of Registration,
Santhome High Road,
Santhome, Chennai - 600 004.
2. The District Registrar
Namakkal, Namakkal District.
3. The Joint Registrar - II,
Namakkal,
Namakkal District - 637 001.
4. Pandian
5. Palanisamy

... Respondents in
W.P.No.2063 of 2017



PRAYER IN W.P.NO.14872 OF 2022:-

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records of the respondent relating to the registration of unilateral cancellation of the settlement deed dated 2.7.2014 and registered as document No.2801/2014 and quash the same and thereby direct the respondent to remove the entries made in the encumbrance relating to the abovesaid cancellation of settlement deed.

PRAYER IN W.P.NO.2063 OF 2017:-

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records relating to the proceedings in Na. Ka. No.271/2016 dated 24.10.2016 by the 3rd respondent in respect of property in S. No.200/1, 200/2, 200/4 to an extent of 2.34 Hec. (equivalent to 5 Acre 90 cents) and quash the same and consequently direct the 3rd respondent herein to delete the endorsement such as annulment from the registers and documents in the office of the 3rd respondent.

For Petitioners : Mr.N.Suresh

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader
For R-1
in W.P.No.14872 of 2022
&
For RR-1 to 3
in W.P.No.2063 of 2017

ORDER

The present writ petitions have questioned the legality of the registration of the cancellation deed executed by the respective settlor in favour of the petitioners, who are the settlees, which have been registered by registering authority and which have been put in issue before this Court in the present petitions.

2. When the matter is taken up for hearing, learned Special Government Pleader appearing for respondents 1 to 3 submitted that the issue raised in this writ petition is already covered by the order passed by this Court in W.P. Nos.33892/2012, etc., Batch, vide order dated 06.04.2022, in and by which this Court



had dismissed all the writ petitions therein and, therefore, similar orders may be passed in the present petition as well.

3. However, learned counsel appearing for the petitioner in W.P.No.14872/2022 sought to contend otherwise by placing reliance on a decision of the Hon'ble Apex Court in Asset Reconstruction Company (India) Ltd. - Vs - S.P.Velayutham & Ors. (MANU/SC/0579/2022) and submitted that not only can the High Court exercise its jurisdiction under Article 226, but can also cancel the act of registration of the said document. It is therefore submitted that in the present case, the settlement deed having been entertained without the presence of the settlee, which is mandatory, the registration of the document is unsustainable and, therefore, the same deserves to be quashed.

4. Reliance was also placed on the decision of the Division Bench of this court in the case of (Kanniyar & Anr. - Vs - Saranya & Ors. (W.A. No.108 of 2020 - Dated 24.01.2020).

5. This Court, vide order dated 06.04.2022 in W.P. No.33892/2012, etc., Batch, while considering an issue relating to cancellation of settlement deed unilaterally, held as under :-

"64. Upon careful perusal of the decisions of the Hon'ble Apex Court and the Full Bench, which have been relied upon by the learned counsel in support of their respective submissions, this Court is of the considered view that held that though both the decision in Satya Pal's case and Latif's case (supra) relate to unilateral cancellation of a sale deed, however, the issue covered in the present batch of petitions relate to unilateral cancellation of settlement deed. Further, the decision in Satya Pal's case (supra) spells out the correct ratio in which the relevant provisions of the Act has to be interpreted and, in fact, to a limited extent the decision of the Full Bench also tags with the decision in Satya Pal's case (supra) and upon such interpretation on the basis of the ratio laid down in Satya Pal's case (supra), this Court answers the questions formulated in the following manner :-

Question Nos.1 & 2 :

i) Whether the Registering Authority can desist from registering a cancellation deed submitted before him by the settlor alone for cancelling the registered Settlement Deed in the absence or consent of the settlee?



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ii) Whether the Registering Authority has the power to cancel a document vide the cancellation deed, and insist the settlor and settlee to appear at the time of registration of the document, in the absence of any provision of law?

Answer :

The registering authority has no power to desist from registering a document, once it is submitted to him along with the necessary documents, which are mandated under the Act and once the document is properly registered, the registering authority, in the absence of any express provision under the Act or the Rules, is not competent to cancel the registered document.

Question Nos.3 & 4 :

iii) Whether a writ petition is maintainable questioning such registration?

iv) What is the remedy available to the parties in the event of registration of a cancellation deed unilaterally by the settlor?

Answer :

The writ petitions, at the instance of the petitioners are wholly misconceived and the writ jurisdiction cannot be invoked seeking cancellation of the respective cancellation deeds and this Court, sitting under Article 226 of the Constitution, cannot issue a writ directing the registering authority to cancel the registered document, when it involves disputed questions of fact between the parties. Further, the remedy open to the petitioners/aggrieved party is only to file a civil suit before the appropriate jurisdictional court and a writ petition is not maintainable.

65. For the reasons aforesaid, the writ petitions filed by the petitioners praying for a direction to the registering authority/respondent herein to cancel the unilaterally executed cancellation deeds in and by which the respective settlement deeds have been cancelled, cannot be entertained and, accordingly, the writ petitions are dismissed. It is further made clear that this Court has not entered into the realm of





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"53. It must be noted that when a High Court, in exercise of its jurisdiction under Article 226 finds that there was utter failure on the part of the Registering Authority to stick to the mandate of law, the Court merely cancels the act of registration, but does not declare the very execution of the document to be null and void. A declaration that a document is null and void, is exclusively within the domain of the civil court, but it does not mean that the High Court cannot examine the question whether or not the Registering Authority performed his statutory duties in the manner prescribed by law. It is well settled that if something is required by law to be done in a particular manner, it shall be done only in that manner and not otherwise. Examining whether the Registering Authority did something in the manner required by law or otherwise, is certainly within the jurisdiction of the High Court under Article 226. However, it is needless to say that the High Courts may refuse to exercise jurisdiction in cases where the violations of procedure on the part of the Registering Authority are not gross or the violations do not shock the conscience of the Court. Lack of jurisdiction is completely different from a refusal to exercise jurisdiction."

(Emphasis Supplied)

9. The Hon'ble Supreme Court has clearly expounded that only when the High Court feels that the Registering Authority has not performed his statutory duties in the manner prescribed by law, the High Court could examine the issue and otherwise, the matter as to the validity of the document is exclusively with the domain of the civil court.

10. This Court is not only in consonance with the above proposition propounded by the Hon'ble Apex Court, but had, in fact, in its decision in W.P. No.33892/12 had only expressed the said view and had held that the Registering Authority had followed the provisions of law while registering the document and if at all any grievance is expressed, it is for the concerned party to approach the civil court to ventilate his grievance.

11. In the case on hand as well, the settlement deed presented, had been accepted for registration and, in fact, been registered following the provisions of Section 17 and 18 of the Act. The respective petitioner has not pointed out any infraction of the legal provisions on the part of the



Registering Authority, but had merely stated that unilateral cancellation is impermissible in view of the decision of the Full Bench in Latif's case. The decisions to that effect relied on by the learned counsel for the petitioners, being distinguishable and in fact, as stated above, the decision of the Hon'ble Apex Court is more in favour of the view taken by this Court earlier, this Court is of the considered opinion that the present petitions do not in any way advance any aspect new for this Court to take a different view and, accordingly, the said petitions deserve to be dismissed.

12. Accordingly, for the reasons aforesaid, both the writ petitions are dismissed. However, it is open to the respective petitioner to file appropriate suit before the jurisdictional civil court or to avail any other remedy available to them under law, where all the points raised herein could be canvassed by the petitioners and if such legal recourse is taken by the petitioners, the concerned court/authority shall take up the same on its own merits and adjudicate the dispute without in any way being influenced by any observation made by this Court in the decision supra. Consequently, the miscellaneous petitions filed to dispense with the production of certified copy of the respective cancellation deeds are ordered. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Inspector General of Registration,
Santhome High Road,
Santhome, Chennai - 600 004.
2. The District Registrar,
Namakkal, Namakkal District.
3. The Joint Registrar - II
Namakkal,
Namakkal District - 637 001.



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4. The Sub Registrar,
Anna Nagar,
Integrated Sub Registrar Offices Campus,
No.576, Mogappair West,
Ambattur Industrial Estate,
Chennai - 37.

+2ccs to Mr.N.Suresh, Advocate, S.R.Nos.39147 & 39148
+1cc to the Government Pleader, S.R.No.36964

W.P.NOS.14872 OF 2022
& 2063 OF 2017

VG-II (CO)
PBS/07/07/2022