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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.18247 of 2021

Mr.R.S.Balasubramanian

... Petitioner

Vs.

1.The Sub Registrar,
Mylapore, Chennai.

2.V.Padmavathy

3.R.Savithri

... Respondents

PRAYER: This Writ Petition filed under Section 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records relating to the registration of the unilateral deed of cancellation dated 12.1.2015 in document No. 134/2015 on the file of the 1st respondent executed by the 2nd and 3rd respondents and quash the same and consequently direct the 1st respondent to remove the concerned entries in the register within a stipulated time frame.

For Petitioner : Mr.K.R.Samratt

For RR1 : Mr.Yogesh Kannadasan,
Special Government Pleader

Order

This petition has been filed for issuance of writ of Certiorarified Mandamus to call for the records relating to the registration of the unilateral deed of cancellation dated 12.1.2015 and quash the same and consequently direct the 1st respondent to remove the concerned entries in the register

2. When the matter is taken up for hearing, learned Special Government Pleader appearing for 1st respondent 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.

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3. This Court, vide order dated 06.04.2022 in W.P. No.33892/2012, etc., Batch, while considering an identical issue, 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?

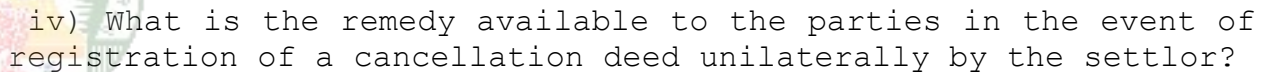
ii) Whether the Registering Authority has the power to cancel a document vide the cancellation deed, and insist the settlor and settlee to appear at the time of registration of the document, in the absence of any provision of law?

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?



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.

4.The present petition being on the identical issue, the order passed in the aforesaid case is squarely attracted to the present petition as well. For the reasons aforesaid, this writ petitions is dismissed. However, it is open to the 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. There shall be no order as to costs.

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SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

The Sub Registrar,
Mylapore, Chennai.

+lcc to Mr.K.R.Samratt, Advocate Sr.27174
+lcc to the Government Pleader Sr.28001

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