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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.18089 of 2021
and
W.M.P.No.19320 of 2021

R.Bhuvaneswari

... Petitioner

vs.

1. The Sub Registrar
Anna Nagar,
Chennai.

2. R.Shantha

3. R.Suguna

4. R.Vidyasagar

5. R.Parimaladevi

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relate to the registration of the Unilateral Cancellation of Settlement Deed D.No.6373 of 1992 dated 18.12.1992 on the file of the Sub-Registrar, Anna Nagar, executed by petitioner's father namely V.Raman and Register by the 1st respondent and quash the same and consequently direct the 1st respondent to remove the connected entries in the register.

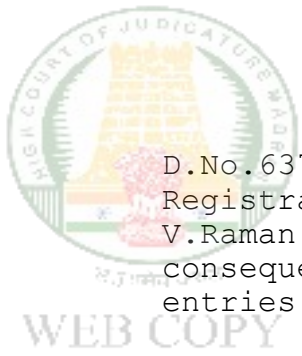
For Petitioner : Mr.V.Venkatesan

For R1 : Mr.Yogesh Kannadasan
Special Government Pleader

For R2, R3 and R5 : No Appearance

ORDER

The writ petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records relate to the registration of the Unilateral Cancellation of Settlement Deed



D.No.6373 of 1992 dated 18.12.1992 on the file of the Sub-Registrar, Anna Nagar, executed by petitioner's father namely V.Raman and register by the 1st respondent and quash the same and consequently, direct the 1st respondent to remove the connected entries in the register.

2. The case of the petitioner is that the property comprised in S.No.362/1B(part) situated at No.4/18, Elango Nagar, 2nd Main Raod, Padi, Chennai, Plot Nos.17 and 18, to an extent of 2400 sq.ft., owned by the petitioner's father. During his life time, he executed a Settlement Deed in favour of the 4th respondent herein, who is brother of the petitioner's herein to an extent of 1200 sq.ft., vide Document No.42/1984. In respect of the remaining land, he executed a Settlement Deed dated 20.11.1989 in favour of the petitioner registered vide Document No.5318/1989. Thereafter, the entire revenue records were mutated in favour of the petitioner and she obtained electricity connection and assessed the property tax. However, her father executed an unilateral Cancellation of Settlement Deed dated 18.12.1992 registered vide Document No.6373/1992, without any notice to the petitioner and without any knowledge of the petitioner. The petitioner did not aware of the said fact and in fact, she obtained loan to develop the said property and subsequently, the entire loan has been settled in the year 2008. Subsequently, the petitioner's father died in the year 2009.

3. After registering the document, no authority has power to cancel the registration of document. The Civil Court alone can set aside the registered document. The 1st respondent has no power to register the unilateral cancellation of settlement deed that too presented unilaterally, without any notice to the petitioner and without giving opportunity of hearing to the petitioner. Therefore, the unilateral Cancellation of Settlement Deed dated 18.12.1992 registered vide Document No.6373/1992 on the file of the Sub Registrar Office, Anna Nagar is hereby declared as bad and non-est in the eye of law. In this regard, it is relevant to relied upon the Judgment reported in 2017(2) CWC 796 dated 31.07.2017 P.A.G.Kumaran -vs- Inspector General of Registration held as follows:

"13. According to the learned counsel for the petitioner, it is not only based on the judgment of the Apex Court reported in 2014 (4) CTC 572 (SC) (cited supra) that this Court has rendered a finding with regard to the cancellation of settlement deed, in W.P.No.6230 and 6231 of 2011 (cited supra), but also referring to the judgment of the



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cancellation of document, namely Deed of Cancellation of Settlement deed, registered as Document No.3328 of 2014, dated 10.11.2014, is illegal and in view of the same, the first and second respondents are directed to remove the entries in the Register and the subsequent transaction, namely settling the property in favour of the son of the third respondent, made pursuant to the unilateral cancellation of settlement deed, is also null and void. All the entries have got to be removed and this has got to be done within one month from the date of receipt of a copy of this order. This Court makes it clear that this order will not prevent the third respondent from approaching the Civil Court and establish her right over the property in question and if done, the Civil Court shall decide the matter without being influenced by any of the observations made in this writ petition touching on the merits of the matter. As this Court has held that the cancellation of settlement deed is illegal and without jurisdiction, and declared the same as null and void, if any suit is filed, the same has got to be decided by the Civil Court in accordance with law, including the issue of limitation. If the third respondent goes before appropriate forum with regard to the cancellation of settlement deed, which is the subject matter of this Writ Petition, this Court expects that the said civil forum to decide the matter as expeditiously as possible, from the date of initiation of such suit, and the matter shall not be adjourned beyond seven working days at any point of time. The petitioner shall co-operate in the trial if such suit is filed."

4. The unilateral Cancellation of Settlement Deed dated 18.12.1992 vide Document No.6373/1992 is hereby set aside. The 1st respondent is directed to correct the entries in the encumbrance register and all the relevant records. In view of the legal principles settled in the above Judgment, unilaterally cancellation of settlement deed is contrary to law. However, the 2nd to 5th respondents are at liberty to challenge the settlement deed before the Civil Court in the manner known to law.



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5. Accordingly, this writ petition is allowed. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

dm

To

The Sub Registrar
Anna Nagar,
Chennai.

+1cc to Mr.V.Ragupathi, Advocate, S.R.No.2792

+1cc to the Government Pleader, S.R.No.3380

W.P.No.18089 of 2021

MT (CO)
SU (21/02/2022)