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W.P. No. 44416 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.11.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.44416 of 2016

A.Karthikeyan

..Petitioner

Vs.

1. The Inspector General of Registration,
Santhome, Chennai-600 004

2. The Sub Registrar,
Sooramangalam,Salem District.

3. A.Samboornam

4. A.Senthil Kumar

5. A.Suriyanarayanan

...Respondents

Prayer:Writ petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the Respondents 1 & 2 to cancel the purported Deed of Cancellation of Settlement dated 11.03.2015 executed by respondents 3 to 5 and registered as Document Number 2132/2015 Book-I on the file of the 2nd Respondent.

For Petitioner : Mr.O.M.Anantha Kumar

For RR1 & 2 : Mr.E.Vijay Anand
Additional Government Pleader

For RR3 to 5 : Mr.S.Senthil



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ORDER

WEB COPY This petition has been filed seeking a direction to the Respondents 1 & 2 to cancel the purported Deed of Cancellation of Settlement dated 11.03.2015 executed by respondents 3 to 5 and registered as Document Number 2132/2015 Book-I on the file of the 2nd Respondent.

2. The case of the petitioner is that the third respondent is the mother of the petitioner and the respondents 5 and 6 are the brothers of the petitioner. Out of love and affection, the respondents 3 to 5 executed a registered settlement deed in favour of the petitioner on 11.07.2008. Subsequently, the respondents 3 to 5 were unilaterally cancelled the settlement deed on 11.03.2015 and the respondents 1 & 2 have also entertain the said cancellation deed. Therefore, the petitioner sent a legal notice to the respondents to cancel the cancellation of settlement deed dated 11.03.2015 and however, till date, the same was not considered by the respondents 1 & 2. Therefore, the petitioner has filed the present writ petition before this Court seeking an appropriate remedy.

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 respondents 1 and 2 have no authority to entertain fore registration of the



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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 and brothers viz., respondents 3 to 5 settled the property in favour of the petitioner in the year 2008 vide Settlement Deed dated 11.07.2008 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



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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 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.*



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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."

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 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 2nd respondent dated 11.03.2015 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.

10.11.2022

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Index:yes/No

Internet:yes/no



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M.DHANDAPANI.,J.

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To

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2. The Sub Registrar,
Sooramangalam,Salem District.

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