

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 21.06.2022

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 34585 OF 2014

AND

M.P. NO. 1 OF 2014

A.Gobalakrishnan

.. Petitioner

- Vs -

1. The Sub Registrar-II
Office of the Sub Registrar
Registration Department
Karungalpalam
Erode & District.

2. Pavayammal

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorari calling for the entire records of the impugned cancellation of settlement deed dated 22.9.2014 executed by the 2nd respondent vide Document No.6202/14 on the file of the 1st respondent cancelling the settlement deed dated 1.11.2013 bearing Document No.7465/2013 with regard to the property in Erode District, Erode Town, T.S. No.9P (New T.S. No.57) Resurvey Ward-C, situate at Vinayagar Koil Street-I, bearing Door No.44, having an extent of 3375 sq.ft., and quash the same.

For Petitioner : Mr. I.C.Vasudevan

For Respondents: Mr. Yogesh Kannadasan,
Spl. GP for R-1
Mr. Thomas T.Jacob for R-2

ORDER

The present writ petition has questioned the legality of the registration of the cancellation deed executed by the 2nd respondent settlor in favour of the settlee and the registration of the said deed by the 1st respondent, which has resulted in the filing of the present petition.

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. 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?

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 adjudicating the legality or validity of the cancellation deed, but has only decided the power of the registering authority to entertain the document for registration and its subsequent cancellation and, therefore, it is open to the petitioners 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. It is also made clear that the benefit of this order shall not operate with regard to matters, which have already been decided by this Court one way or the other and the doctrine of res judicata would stand attracted."

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 him under law, where all the points raised herein could be canvassed by the petitioner and if such legal recourse is taken by the petitioner, 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, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

GLN

To

The Sub Registrar-II
Office of the Sub Registrar
Registration Department
Karungalpalayam,Erode & District.

+1cc to Mr. I.C.Vasudevan, Advocate, S.R.No.38372

+1cc to the Government Pleader, S.R.No.38821

W.P. NO. 34585 OF 2014

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NSK/11/07/2022