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W.P.No. 24581 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2022

CORAM:

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No. 24581 of 2022

M.Rajesh

.Petitioner

Versus

1. The District Registrar
District Registration Office
Cheyyar, Tiruvannamalai District.
2. The Sub Registrar,
Kanamangalam Sub Registrar Office
Tiruvannamalai District.
3. A. Pachiyappan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the first respondent to dispose of the petitioner's representation dated 22.10.2021 by affording an opportunity of personal hearing to cancel the settlement cancellation deed in Doc.No.859 of 2006, dated 06.07.2006 within the stipulated period.

For Petitioner : Mr.M. Sathish Kumar

For RR 1 & 2 : Mr.V. Manoharan
Additional Government Pleader



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ORDER

The writ petition is filed seeking for a direction to the first respondent to dispose of the petitioner's representation dated 22.10.2021 by affording an opportunity of personal hearing to cancel the settlement cancellation deed in Document No.859 of 2006, dated 06.07.2006 within stipulated period.

2. The case of the petitioner is that the petitioner's grandfather had executed a settlement deed in favour of the petitioner's father in respect of Survey No.109/4A, measuring an extent of 0.51 ares; Survey No.109/4B, measuring an extent of 0.58.5 ares; Survey No.109/4C measuring an extent of 0.24.5 ares; Survey No.662/1B, measuring an extent of 3640 sqft., housing plot and Survey No.662/6, measuring an extent of 2304 sqft. of housing plot and the said settlement deed was duly registered before the second respondent in Document No.671 of 2005, dated 20.06.2005. After execution of the settlement deed, his grandfather had unilaterally cancelled the settlement deed executed in favour of the petitioner's father before the second respondent/Sub Registrar vide Doc.No.859 of 2006,



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dated 06.07.2006. The third respondent, viz., the petitioner's father's brother filed a suit in O.S.No.342 of 2014 for partition before the Principal Subordinate Judge, Vellore District, and the same is pending. The petitioner came to know that the settlement deed cannot be cancelled unilaterally and there is a great suspicion as regards the said unilateral cancellation on his grandfather was along with him for a considerable period of time before his death. Therefore, the petitioner made a representation before the first respondent on 22.10.2021 to cancel the cancellation deed in Doc.No.859 of 2006, but even after receipt of his representation, the same was not considered by the respondents 1 and 2. Hence this petition.

3. Heard both sides and perused materials available on record.

4. It is not in dispute that the petitioner's grandfather, namely, Andi Gounder executed a registered settlement deed in Document No.671 of 2005, dated 20.06.2005 to and in favour of the petitioner's father in the year 2005 in respect of the aforesaid properties. Thereafter, the petitioner's grandfather had unilaterally cancelled the settlement deed, in Document



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No. 859 of 2006, dated 06.07.2006, which was registered before the 2nd respondent, executed in favour of the petitioner's father. Both the petitioner's grandfather as well as the petitioner's father died on 17.03.2012 and 09.10.2019 prior to the representation of the petitioner dated 22.10.2021.

5. It is also seen that with regard to the very same property, the third respondent, the petitioner's father's brother herein, filed a suit in O.S.No.342 of 2014 before the learned Principal Subordinate Judge, Vellore. The petitioner, his mother and his sister were impleaded as the defendants in the suit proceedings. However, the present writ petition is filed after a lapse of 16 years and no proper reason was assigned for delay in filing the present writ petition. Hence, this Court cannot give any affirmative direction to the respondents and the relief sought for by the petitioner in the writ petition cannot be granted.

6. Though the learned counsel for the petitioner relied on a Full Bench decision of this Court in the case of **Sasikala Vs. Revenue Divisional Officer and others** (*W.P.(MD).No.6889 of 2020* etc. batch,



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dated 02.09.2022), however, the same is distinguishable on facts of the present case as the person in whose favour settlement deed was granted, has not approached this Court assailing the cancellation and the delay in filing the present petition also stares writ before on the face of record and hence, the said decision is not applicable to the facts of the present case.

7. It is submitted by the learned counsel for the petitioner that dismissal of the writ petition would adversely affect the interest of the persons who have not filed the suit. It is made clear that this order will not stand in the way of the interested parties to canvas all the issues which would be decided by the Civil Court where the said civil suit is pending.

8. For the reasons aforesaid, this Writ Petition is dismissed. No costs.

13.09.2022

Index:Yes / No
Speaking Order : Yes/No
Neutral citation : Yes/No
msm



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1. The District Collector
District Registration Office
Cheyyar, Tiruvannamalai District.
2. The Sub Registrar,
Kanamangalam Sub Registrar Office
Tiruvannamalai District.



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M. DHANDAPANI, J.

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