



W.P. No. 4193 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated : 25.11.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.4193 of 2017

K.Geetha

..Petitioner

Vs.

1. The Sub Registrar,
Vadavalli, Marudhamallai Adivaram,
Coimbatore-641046

2. The District Registrar
(AIG Cadre), State Bank Road,
Coimbatore-641 018.

3. The Deputy Inspector General of Registration,
Opp. Defence Administrative College,
Redfields Race Course, Coimbatore-641 018.

4. The Inspector General of Registration,
Santhome High Road, Chennai- 600028.

5. The Manager,
Marketing and Service,
Coimbatore Housing Unit,
TamilNadu Housing Board,
Tatabad, Coimbatore-641012.

6. The Managing Director,
Tamil Nadu Housing Board,
Nandanam Chennai- 600 035.



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7. The Executive Engineer,
Tamil Nadu Housing Board,
Tatabad, Coimbatore-641 012.

...Respondents

Prayer: Writ petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to take necessary action to cancel the illegal registration of the impugned cancellation deed no.145/2017 dated 18.01.2017 on considering the petitioners representation dated 25.01.2017 within the time fixed by this Honble Court.

For Petitioner : Mr.S.Saravanan

For RR1 to 4 : Mr.G.Krishna Raja
Additional Government Pleader

For RR5 to 7 : Mr.D.Veerasekaran

ORDER

This petition has been filed seeking a direction to the respondents to take necessary action to cancel the illegal registration of the impugned cancellation deed No.145/2017 dated 18.01.2017 on considering the petitioners representation dated 25.01.2017 within the time fixed by this Honble Court.

2. The case of the petitioner is that he is the owner of the property in plot No.37 measuring an extent of 3487.50 sq.ft. of S.F.No.296/1 situated at Anna Nagar Housing Unit, part of Kavudampalayam Village, Vadavalli Village,



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Vadavalli Road, Coimbatore and the above said plot was allotted to the petitioner in the sanctioned plan of Anna Nagar installments land development scheme by the Housing Board vide its order dated 01.03.2011 for the valuable sale consideration and subsequently, it was executed in favour of the petitioner. After execution, the petitioner is in continuous possession and enjoyment of the property from the year 2011. All of a sudden, a cancellation of a sale deed bearing document No.145/2017 has been registered against the petitioner's original sale deed No.3528 of 2011 by the 5th respondent before the Sub Registrar, Vadavalli. The petitioner is in possession and enjoyment of the property from the date of purchase, but the 5th respondent, without issuing any notice and without affording any opportunity to the petitioner, the first respondent had unilaterally cancelled the petitioner's sale agreement No.3528 of 2011 vide document No.145/2017 on 18.01.2017. Challenging the said cancellation of settlement deed, the petitioner has filed the present writ petition before this Court.

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 first respondent has no authority to entertain the alleged cancellation of settlement deed. Further it is submitted that the very same issue was decided by



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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 Housing Board executed the subject property in favour of the petitioner in the year 2011 vide Settlement Deed dated 29.03.2011 and subsequently the same was cancelled in the year 2017. 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 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



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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.*

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,*



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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."

5. 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 first respondent dated 18.01.2017 is declared as null and void and however, liberty is granted to the respondents to work out their remedy in the manner known to law. No costs.

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Index:yes/No

Internet:yes/no

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