



W.P.No.2825 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.11.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.2825 of 2017

S.Kannan

..Petitioner

Vs.

1.The Sub Registrar,
Velachery, No.36, Orandiamman Koil Street,
Velacherry, Chennai 600 042.

2.R.Padma @ Rajam

...Respondents

Prayer: Writ petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to quash the registration of Cancellation of Settlement Deed on 04.03.2015 registered as Doc.No.1435 of 2015 on the file of the 1st respondent herein.

For Petitioner : Mr.G.Vijayakumar

For R1 : Mr.E.Vijay Anand
Additional Government Pleader

For R2 : Mr.Simi Mathesh for
Mr.A.M.Pachianathan Easter

ORDER

This petition has been filed for issuance of writ of Certiorari to quash the registration of Cancellation of Settlement Deed on 04.03.2015.



W.P.No.2825 of 2017

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2. The case of the petitioner is that he had purchased a property bearing No.S-3, Second Floor, Adithya Apartment, Plot No.33, 4th Street, Periyar Nagar, Madipakkam, Chennai 600 091, Super built up area measuring 801 sq.ft together with 412 sq.ft undivided share of land out of 2400 sq.ft comprised in S.F.No.201/7, situated at Madipakkam Village, Sholinganallur Taluk, Kanchipuram District. The petitioner has purchased the said property jointly with his wife / 2nd respondent and he has promptly repaying loans. While so, the 2nd respondent who is the joint owner of the said property had settled her entitlement of one half share in the said property in favour of the petitioner vide Settlement Deed dated 15.09.2014. Thereafter to his shock and surprise, the said Settlement Deed executed on 15.09.2014 was unilaterally cancelled by the 2nd respondent by executing a Cancellation of Settlement Deed dated 04.03.2015. Aggrieved by the same, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner submitted that though earlier the impugned Cancellation of Settlement Deed was effected by the 2nd respondent on the ground that there was a



W.P.No.2825 of 2017

matrimonial dispute between the petitioner and the 2nd respondent, subsequently the matrimonial dispute got resolved and 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 wife settled the property in favour of the petitioner in the year 2014 vide Settlement Deed dated 15.09.2014 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:



W.P.No.2825 of 2017

WEB COPY

*"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** 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.



WEB COPY



W.P.No.2825 of 2017

(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, 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."



WEB COPY



W.P.No.2825 of 2017

M.DHANDAPANI.,J.

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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 2nd respondent dated 04.03.2015 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. Consequently connected miscellaneous petition is closed.

24.11.2022

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To
The Sub Registrar,
Velachery, No.36, Orandiamman Koil Street,
Velacherry, Chennai 600 042.

W.P.No.2825 of 2017