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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2022

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.34087 OF 2014

AND

M.P.NO.1 OF 2014

1. Jansi Rani
2. Anthony Raj

... Petitioners

-Vs-

1. The Sub-Registrar,
Sub-Registrar Office,
Redhills,
Chennai - 600 052.
2. Pappammal
3. Pramila
4. Anthoniammal
5. Baskar
6. Kalaiselvi

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the cancellation of settlement deed, dated 19.09.2013 in Document No.11110 of 2013 and the subsequent settlement deed dated 04.10.2013 in Document No.11661 of 2013 and the cancellation of settlement deed, dated 14.05.2014 in Document No.4876 of 2014 and the settlement deed, dated 14.05.2014 in Document No.4877 of 2014 and the settlement deed, dated 19.05.2014 in Document No.5083 of 2014 and the sale deed, dated 04.07.2014 in Document No.6915 of 2014 on the file of the first respondent and quash the same as illegal and incompetent and consequently, direct the first respondent to remove the above mentioned entries from the encumbrance certificate.



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For Petitioners : Mr.R.Jayaprakash
For R1 : Mr.Yogesh Kannadasan
Special Government Pleader
For R3 and R5 : No Appearance

ORDER

This Writ Petition has been filed for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the cancellation of settlement deed, dated 19.09.2013 in Document No.11110 of 2013 and the subsequent settlement deed dated 04.10.2013 in Document No.11661 of 2013 and the cancellation of settlement deed, dated 14.05.2014 in Document No.4876 of 2014 and the settlement deed, dated 14.05.2014 in Document No.4877 of 2014 and the settlement deed, dated 19.05.2014 in Document No.5083 of 2014 and the sale deed, dated 04.07.2014 in Document No.6915 of 2014 on the file of the first respondent and quash the same as illegal and incompetent and consequently, direct the first respondent to remove the above mentioned entries from the encumbrance certificate.

2. Heard Mr.R.Jayaprakash, learned counsel appearing for the petitioners and Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the first respondent. There is no representation for the respondents 3 and 5.

3. The case of the petitioners is that the second respondent is their mother and she owned property comprised in Survey No.46/9 situated at Plot No.114, Balaji Nagar, Ambattur Taluk, Thiruvallur District to an extent of 2400 sq.ft. She executed a settlement deed in favour of the petitioners by way of a registered settlement deed, dated 08.02.2011 registered vide Document No.1115 of 2011. After execution of the settlement deed, the petitioners are in possession and enjoyment of the said property and the revenue records were also mutated in their favour. However, without any knowledge to the petitioners, the second respondent unilaterally cancelled the settlement deed by the deed of cancellation of settlement deed, dated 19.09.2013 registered vide Document No.11110 of 2013. Thereafter, the second respondent settled the subject property in favour of the petitioners and the respondents 3 and 4 herein by way of a settlement deed, dated 04.10.2013 registered vide Document No.11661 of 2013.

4. In fact, on the strength of the settlement deed dated 08.02.2011 executed in favour of the petitioners, they sold a portion of the property to an extent of 605 sq.ft in favour of a third party by the registered sale deed, dated 06.12.2013 registered vide Document No.13789 of 2013. The settlement deed



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the learned counsel for the appellants is right in his submission that the declaration granted by the High Court cannot extinguish the rights of the appellants to contest their position before the appropriate forum and even otherwise, the appellants must have been under the belief that the cancellation deed had fulfilled the said purpose. This may also be coupled with the issue of limitation, if any action is proposed by the appellants and we therefore, make it clear that from that point of view, W.A.No.108 of 2020 the filing of the writ petition and the grant of declaration on 10.08.2018 shall not be a disadvantage in that regard.

7. In view of the settled law, the records pertaining to the cancellation of settlement deed, dated 19.09.2013 in Document No.11110 of 2013 and the subsequent settlement deed dated 04.10.2013 in Document No.11661 of 2013 and the cancellation of settlement deed, dated 14.05.2014 in Document No.4876 of 2014 and the settlement deed, dated 14.05.2014 in Document No.4877 of 2014 and the settlement deed, dated 19.05.2014 in Document No.5083 of 2014 and the sale deed, dated 04.07.2014 in Document No.6915 of 2014 on the file of the first respondent, is hereby quashed. However, the respondents 2 to 6 are at liberty to approach the Civil Court in the manner known to law.

8. In view of the above, this writ petition stands allowed. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Sub-Registrar,
Sub-Registrar Office,
Redhills, Chennai - 600 052.

+1cc to M/s.R.Jayaprakash, Advocate, S.R.No.5294

+1cc to the Government Pleader, S.R.No.6039

W.P.No.34087 of 2014
and M.P.No.1 of 2014

KSM(CO)

RLP(11/02/2022)