



W.P(MD)No.18100 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.09.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.18100 of 2014
and
M.P(MD)Nos.1, 2 & 3 of 2014

M.Srinivasan

... Petitioner

Vs.

1.The District Registrar,
Kanyakumari District,
Nagercoil.

2.The Sub Registrar,
Office of the Sub Registrar,
Idalakudi,
Kanyakumari District.

3.A.Kasthuri

... Respondents

4.Rani Gomathy

5.M.Iyyappan

... Proposed Respondents

*(Respondents 4 and 5 are impleaded vide Court order,
dated 09.11.2017 in W.M.P(MD)No.8961 of 2017 in
W.P(MD)No.18100 of 2014)*



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the registration of the cancellation deed registered in Document No.1947 of 2014, dated 08.07.2014, on the file of the second respondent and quash the same as illegal, void and against the provision of Registration Act and consequently issue a direction to the respondents 1 & 2 to delete such adverse encumbrances in the respect of the schedule of properties and pass such further or other orders as this Court.

For Petitioner : Mr.N.Dilip Kumar

For R-1 & R-2 : M/s.S.Jeyapriya
Government Advocate

For R-2 & R-3 : No appearance

For R-4 & R-5 : Mr.K.Sathya Singh

ORDER

The present Writ Petition has been filed challenging the registration of a unilateral cancellation of a settlement deed in Document No.1946 of 2014 (Erroneously mentioned as Document No.1947 of 2014 in the writ affidavit). The third respondent is the owner of the property and she has executed a registered settlement deed in favour of her son, namely, the writ petitioner on 03.10.2012 in Document No.3283 of 2012.



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A perusal of the said document indicates that the third respondent has not reserved any right to revoke the said settlement deed. There are no conditions imposed upon the writ petitioner in the said settlement deed by the third respondent herein. However, she has chosen to cancel the said settlement deed on 08.07.2014 in Document No.1946 of 2014 on the file of the second respondent herein. The said document is a unilateral cancellation of the settlement deed.

2. In view of the judgment of the Hon'ble Full Bench of this Court in *W.P(MD)Nos.6889, 8330, 13297 of 2020, 11674 of 2015 and W.A(MD)No.800 of 2022 and C.M.P(MD)No.6797 of 2022, dated 02.09.2022*, Sub-Registrar has no jurisdiction to entertain a unilateral cancellation of the settlement deed, unless the ingredients under Section 126 of the Transfer of Property Act are satisfied. In the present case, a perusal of the original settlement deed, dated 03.10.2012, indicates that the settlor has not reserved any right to revoke the document.



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3. In view of the above said fact, the writ petition stands allowed.

However, the respondents 4 and 5 are at liberty to approach the civil Court, if they are so advised, challenging the said settlement deed, dated 03.10.2012. The second respondent is directed to delete the entry relating to Document No.1946 of 2014, dated 08.07.2014. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand allowed.

14.09.2022

Index : Yes / No
Internet : Yes / No
btr

To

- 1.The District Registrar,
Kanyakumari District,
Nagercoil.
- 2.The Sub Registrar,
Office of the Sub Registrar,
Idalakudi,
Kanyakumari District.



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R.VIJAYAKUMAR, J.

btr

Order made in
W.P(MD)No.18100 of 2014

14.09.2022