



WEB COPY

W.P.Nos.15864 to 15871 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.15864 to 15871 of 2015

and

M.P.Nos.1, 2, 1, 1, 1, 1, 1 & 1 of 2015

W.P.No.15864 of 2015:

Tirougnanasmandamourtty Selva

... Petitioner

Vs.

1.The Union of India
Represented by the Collector
Puducherry Revenue Department
Revenue Complex, Saram
Puducherry.

2.The Sub-Registrar
Office of Sub-Registrar
District Registration Office
Puducherry.

3.Mr.Francine Antonie Mrie Joseph Lourdes

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records pertains to cancellation deed dated 29.01.1996 executed by third respondent unilaterally and registered as document No.1289 of 1996 on the file of second respondent and



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to quash the same as highly illegal.

For Petitioners	: No Appearance (in 8WPs)
For R1 & R2	: Dr.B.Ramaswamy Additional Government Pleader [Puducherry] (in 8WPs)
For R3	: No Appearance (in 8WPs)

COMMON ORDER

The writ petitions are filed challenging the unilateral cancellation of the Sale Deed executed on the file of the Sub Registrar, Puducherry.

2. It is not in dispute that the Sale Deeds were registered in favour of the writ petitioners and the said Sale Deeds were unilaterally cancelled by the 3rd respondent by executing a cancellation deed. Issues regarding unilateral cancellation of documents are no more res integra. The Full Bench of this Court in the case of *M/s.Latif Estate Line India Ltd. Vs. Mrs. Hadeeja Ammal* reported in *2011 (2) CTC 1* has settled the principles as follows:

“(i) A deed of cancellation of a sale unilaterally executed by the transferor does not create, assign, limit or extinguish any right, title or interest in the property and is of no effect. Such a



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document does not create any encumbrance in the property already transferred. Hence such a deed of cancellation cannot be accepted for registration.

(ii) Once title to the property is vested in the transferee by the sale of the property, it cannot be divested unto the transferor by execution and registration of a deed of cancellation even with the consent of the parties. The proper course would be to re-convey the property by a deed of conveyance by the transferee in favour of the transferor.

(iii) Where a transfer is effected by way of sale with the condition that title will pass on payment of consideration, and such intention is clear from the recital in the deed, then such instrument or sale can be cancelled by a deed of cancellation with the consent of both the parties on the ground of non-payment of consideration. The reason is that in such a sale deed, admittedly, the title remained with the transferor.

(iv) In other cases, a complete and absolute sale can be cancelled at the instance of the transferor only by taking recourse to the Civil Court by obtaining a decree of cancellation of sale deed on the ground inter alia of fraud or any other valid reasons.”

3. In view of the Full Bench judgment (cited *supra*), the impugned unilateral cancellation deeds are to be cancelled.



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4. Accordingly, the 2nd respondent is directed to cancel the unilateral cancellation deeds dated 29.01.1996 executed by the 3rd respondent and effect necessary entries in the encumbrance and in all other registers concerned.

5. Accordingly, these Writ Petitions stand allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

06.06.2023

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

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Revenue Complex, Saram
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S.M.SUBRAMANIAM, J.

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