



W.P.No.34704 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.34704 of 2016

and

W.M.P.Nos.29893 & 29894 of 2016

Vigneshwar

...Petitioner

[Cause title amended vide order dated
22.11.2022 made in WMP.No.30627/2022.

Petitioner attained majority and his
next friend discharged]

Vs

1.The Sub-Registrar,
Office of Sub-Registrar, Panrutti,
Cuddalore District.

2.R.Ravendran

3.Balaji

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records vide Cancellation Deed dated 27.06.2016 registered as Document NO.1564 of 2016 on the file of the first respondent and quash the same.



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For Petitioner	: Mr.R.Ganesh Kumar
For R1	: Mr.T.Arunkumar Additional Government Pleader
For R2	: Mr.S.Balasubramanian
For R3	: Mr.V.Srikanth for Mr.S.Nedunchezhiyan

ORDER

The writ on hand has been instituted to quash the unilateral cancellation of settlement deed made in cancellation deed dated 27.06.2016 registered as Document No.1564 of 2016 on the file of the first respondent.

2.The petitioner states that a settlement deed in favour of the petitioner was executed on 03.12.2012 by the second respondent Late R.Ravendran. The deceased second respondent is the elder brother of the father of the writ petitioner and he executed a settlement deed in favour of the writ petitioner out of love and affection. The said settlement deed dated 03.12.2012 was cancelled by the deceased second respondent unilaterally by seeking a cancellation deed on 27.06.2016 in Document No.1564 of 2016 on the file of the Sub-Registrar, Panrutti.



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3.The learned counsel for the petitioner mainly contended that the unilateral cancellation of settlement deed is impermissible and the issues are settled by this Court.

4.The learned counsel for the third respondent raised an objection by stating that the petitioner has already instituted a civil suit in O.S.No.63 of 2021 on the file of the Additional District Court, Villupuram and the said suit is pending. The suit was instituted for declaration and permanent injunction. It is contended that the issues raised is to be adjudicated before the civil court and therefore, the writ petition is to be rejected.

5.As far as the principle governing the unilateral cancellation of settlement deed, the issues are no more *res integra* and two Hon'ble Full Bench of this Court have considered and held that such unilateral cancellation is impermissible and there is no provision under the Registration Act to cancel the settlement deeds.



6.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 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 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.”

7.The legal position was further confirmed by the subsequent Full Bench Judgment in the case of **Sasikala vs. The Revenue Divisional Officer, cum Sub Collector, Devakottai and Others** reported in (2022) 7 MLJ 1. The relevant paragraphs are extracted here under:

“54. The third step namely the act of registration, is something that the Registering Authority is called upon to do statutorily. While the executant of the document and the person claiming under the document (claimant) are the only actors involved in the first two steps, the Registering Officer is the actor in the third step. Apart from the third step which is wholly in the domain of the Registering Authority, he may also have a role to play in the



second step when a document is presented for registration and the execution thereof is admitted. The role that is assigned to the Registrar in the second step is that of verification of the identity of the person presenting the document for registration.

55. Thus, the first two steps in the process of registration are substantial in nature, with the parties to the document playing the role of the lead actors and the Registering Authority playing a guest role in the second step. The third step is procedural in nature where the Registering Authority is the lead actor....

*59. Much ado was sought to be made by contending that the Appellant approached the High Court without disclosing the previous orders of the High Court and this Court, relegating them to civil court for the adjudication of their claim. Reliance was also placed in this regard on the decision of this Court in **Raj Kumar Soni vs. State of U.P.** (2007) 10 SCC 635.”*

8. Therefore, the relief as such sought for in the present writ petition to quash the cancellation deed is to be considered. However, the civil rights between the parties, if any reminds in the civil suit is to be adjudicated



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before the civil court in the manner contemplated. The parties are at liberty to adjudicate other issues involved in the civil suit. As far as the unilateral cancellation of settlement deed is concerned, the present writ petition is to be allowed.

9. Accordingly, the cancellation deed dated 27.06.2016 registered as Document No.1564 of 2016 is quashed and the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

31.08.2023

cse
Index: Yes/No
Speaking order/Non-speaking order
Neutral Citation: Yes/No

To

The Sub-Registrar,
Office of Sub-Registrar, Panrutti,
Cuddalore District.
Cuddalore District.



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S.M.SUBRAMANIAM, J.

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