



WEB COPY



W.P.Nos.18017 & 18019 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.Nos.18017 & 18019 of 2021 &
W.M.P.No.24766 of 2022

K.Madhav

...Petitioner in both W.Ps.

Vs

1.The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
Raja Annamalai Puram,
Chennai - 600 028.

2.The Sub-Registrar,
Kamaraj Avenue 2nd Street,
Venkata Rathnam Nagar Extension,
Adyar, Chennai - 600 020.

...Respondents in both W.Ps.

PRAYER in W.P.No.18017 of 2021: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of declaration declaring the registration of Deed of Cancellation as Document No.3939 of 1992 dated 14.10.1992 by the second respondent as null and void.

PRAYER in W.P.No.18019 of 2021: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the



W.P.Nos.18017 & 18019 of 2021

second respondent to remove the encumbrance entry reflecting in respect of the petitioner's property situated at Old No.4A, New No.9A, ground Floor, Thiruvengadam Street, Adyar, Chennai - 600 020.

For Petitioner
in both W.Ps. : Mr.Hari Radhakrishnan

For Respondents
in both W.Ps. : Mr.Yogesh Kanndasan
Special Government Pleader

COMMON ORDER

W.P.No.18017 of 2021 has been filed to declare the Deed of Cancellation registered as Document No.3939 of 1992 dated 14.10.1992 by the second respondent as null and void and W.P.No.18019 of 2021 has been filed to direct the second respondent to remove the encumbrance entry reflecting in respect of the petitioner's property situated at Old No.4A, New No.9A, ground Floor, Thiruvengadam Street, Adyar, Chennai - 600 020.

2. The property comprised in Old No.4A, New No.9A, ground floor, Thiruvengadam Street, Adyar, Chennai - 600 020 was originally purchased by Kandadevi Srinivasa Ramakrishna Iyengar alias Ramakrishnan from one N.Saraswathi wife of B.K.Narayanan Chettiar



W.P.Nos.18017 & 18019 of 2021

through a sale deed registered as document No.2006/1985 dated 01.06.1985 on the file of the Sub Registrar, Adyar. The said Registration has now been cancelled through a deed of cancellation dated 14.10.1992 registered as document No.3939 of 1992. This deed of cancellation is put under challenge in the present writ petition.

3. Learned counsel for the petitioner submitted that the cancellation deed in Document No.3939 of 1992 has been unilaterally executed by one B.K.Narayanan Chettiar, the husband of the original vendor namely N.Saraswathi and that, such unilateral cancellation is impermissible in law in view of the decision of the Hon'ble Full Court in the case of ***Sasikala vs. The Revenue Divisional Officer cum Sub Collector and another in W.P(MD).No.6889 of 2015 etc batch and W.A.No.800 of 2022 dated 02.09.2022***. The executant of the deed of cancellation registered as document No.3939 of 1992 is not the original vendor who had sold the subject property to the petitioner's father. Even otherwise, there is no provision under the Registration Act or its corresponding Rules which permits such unilateral cancellation of the Sale Deed.



W.P.Nos.18017 & 18019 of 2021

WEB COPY

4. The issue as to whether such unilateral cancellation of conveyance was referred to the Hon'ble Full Bench of this Court in the aforesaid **Sasikala's** case, wherein it was held that such cancellation is impermissible. The relevant portion of the said order is as follows:

*"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.-vsGovernment 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



W.P.Nos.18017 & 18019 of 2021

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.

(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."



W.P.Nos.18017 & 18019 of 2021

WEB COPY

5. This Court is unable to understand as to under what authority, the Sub-Registrar had executed the deed of cancellation of the sale deed in the absence of any provision under the Registration Act or Rules or any Circular of the Inspector General of Registration. To worsen such an illegal Act, the Sub Registrar seems to have failed to note that the executant of the deed of cancellation was not the vendor of the petitioner's father in the original sale deed registered as document No.2006/1985. Thus, the entire registration process of the cancellation deed is illegal.

6. In the light of the above, the deed of cancellation registered as document No.3939/1992 on 14.10.1992 on the file of the Sub Registrar, Adyar is hereby declared as illegal and non est in the eye of law. Consequently, there shall be a direction to the second respondent to forthwith make necessary entries in the Registration Book pertaining to the subject property in Old No.4A, New No.9A, ground floor, Thiruvengadam Street, Adyar, Chennai - 600 020 and delete the entry pertaining to the deed of cancellation registered as document No.3939/1992 dated 14.10.1992 and issue a fresh Encumbrance



W.P.Nos.18017 & 18019 of 2021

WEB COPY

Certificate to the petitioner. Such process shall be done within a period of one week from the date of receipt of a copy of this Order.

7. With the aforesaid direction, these writ petitions are allowed. No costs. Consequently, connected miscellaneous petition is closed.

16.03.2023

nl

Index:Yes/No

Neutral Citation:Yes/No

Speaking order/Non-speaking order

To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
Raja Annamalai Puram,
Chennai - 600 028.

2.The Sub-Registrar,
Kamaraj Avenue 2nd Street,
Venkata Rathnam Nagar Extension,
Adyar, Chennai - 600 020.



WEB COPY



W.P.Nos.18017 & 18019 of 2021

M.S.RAMESH,J.

nl

W.P.Nos.18017 & 18019 of 2021

16.03.2023