



W.P.No.22773 of

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.22773of 2023

1.Minor C.V.Tharane
2.Minor C.V.Naveen Srinivasan
Both represented by their Father and
Natural Guardian P.Venkataraman

... Petitioners

Vs

1.The Sub Registrar,
Villivakkam Village,
Perambur-Purasawalkam Taluk,
Presently Aminjikari Taluk,
Chennai.

2.B.Perumal

3.P.Vijaya Krishnan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for records relating to the cancellation of Settlement Deed registered as document No.947/2015 dated 13.02.2015 on the file of 1st respondent and quash the same.

For Petitioners

: Mrs.K.R.Gayathiri

For R1

: Mr.G.Krishnaraja,
Additional Government Pleader.



For R2 and R3

: Mr.M.L.Ramesh

ORDER

An unilateral cancellation of Settlement Deed executed by the respondents 2 and 3 is under challenge in the present writ proceedings.

2. The petitioners are minors represented by their father, natural guardian. It is in dispute between the parties that two Settlement Deeds are executed vide Settlement Deed Document Nos.6156 and 6157 of 2014 dated 15.12.2014 by the respondents 2 and 3 in favour of the writ petitioners. Within a short span of period, the said Settlement Deed was canceled unilaterally by executing the impugned cancellation deed dated 13.02.2015 vide Document No.947 of 2015.

3. The learned counsel for the petitioners mainly contented that the unilateral cancellation of Settlement Deed is immaterial in view of the law laid down by the Full Bench of this Court.

4. The learned counsel appearing on behalf of the respondents 2 and 3 raised an objection by stating that Settlement Deed was executed out of love



and affection towards grand children and the son has failed to maintain the father during his old age. Even the grand children were not allowed to meet the grand father. If that is the case, the remedy for the senior citizen is elsewhere under the provisions of the Senior Citizens Act.

5. However, an unilateral cancellation of Settlement Deed cannot be sustained in view of the principles laid down in the case of **M/s.Latif Estate Line India Ltd. Vs. Mrs.Hadeeja Ammal** reported in **2011 (2) CTC 1**, wherein, the Full Bench held 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



WEB COPY

W.P.No.22773 of



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.”

6. 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



WEB COPY

W.P.No.22773 of



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



WEB COPY

W.P.No.22773 of



*this Court in **Raj Kumar Soni vs. State of U.P.**
(2007) 10 SCC 635.”*

7. Since orders are no more *res integra* and it is the facts that are in dispute in the present case, the impugned cancellation of Settlement Deed executed by the 1st respondent vide Document No.947 of 2015 dated 13.02.2015 is quashed.

8. Accordingly, the Writ Petition stands allowed. No costs.

13.09.2023
(3/3)

veda/jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

The Sub Registrar,
Villivakkam Village,
Perambur-Purasawalkam Taluk,
Presently Aminjikari Taluk,
Chennai.



WEB COPY



W.P.No.22773 of

S.M.SUBRAMANIAM, J.

veda/jeni

W.P.No.22773 of 2023

13.09.2023
(3/3)