



W.P.No.26598 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2023

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.26598 of 2023

Kokila

...Petitioner

-Vs-

1.The District Registrar,
Arakkonam,
Ranipet District.

2.The Sub-Registrar,
Walaja,
Ranipet District.

3.R.Kumaravel

4.S.Nedunchezian

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records relating to the Settlement Cancellation Deed dated 27.10.2017 in Document No.5469 of 2017 and consequent document namely, the Sale Deed dated 27.10.2017 in Document No.5470 of 2017 on the file of 2nd respondent and quash the same as illegal, improper and without jurisdiction.



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For Petitioner : Mr.A.Ilayaperumal
For R1 & R2 : Mr.T.Arunkumar,
Additional Government Pleader

ORDER

The writ on hand has been instituted to quash the unilateral cancellation of Settlement Deed dated 17.03.2017 executed by the third respondent and the consequential Sale Deed executed by the third respondent.

2. The petitioner states that the third respondent Mr.R.Kumaravel is her husband and executed a Settlement Deed in her favour on 17.03.2017 in respect of the land measuring 48½ cents in Sennasamudram Village, Walaja Taluk, Vellore District.

3. The third respondent executed a Cancellation Deed on 27.10.2017 unilaterally and without the consent of the writ petitioner. Pertinently, the third respondent, who is none other than the husband of the writ petitioner, executed an irrevokable Settlement Deed in favour of the petitioner on



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17.03.2017. Execution of an irrevokable Settlement Deed and the subsequent documents, if any, executed are consequentially bad in law.

4. Since the issues regarding unilateral cancellation of Settlement Deed is no more *res integra*, no notice to the other parties are required.

5. As far as the principle governing the unilateral cancellation of Settlement Deed is concerned, the issues are no more *res integra* and two Hon'ble Full Benches 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. In the case of *M/s.Latif Estate Line India Ltd. Vs. Mrs.Hadeeja Ammal* reported in *2011 (2) CTC 1*, the Hon'ble Full Bench 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 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.”



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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



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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. In view of the facts and circumstances, the impugned Cancellation Deed dated 27.10.2017 and the subsequent Sale Deed dated 27.10.2017 are quashed. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index:Yes
Speaking order
Neutral Citation:Yes
pal/hvk



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To
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S.M.SUBRAMANIAM, J.

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