



W.P(MD)No.1332 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.1332 of 2023

and

W.M.P(MD)No.1226 of 2023

Roj Nisha

... Petitioner

Vs

1.The Sub Registrar,
Manamelkudi,
Pudukottai District.

2.Suleka Beevi.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records impugned refusal check-slip No.RFL/Manamelkudi/1/2023 dated 09.01.2023 on the file of the first Respondent, quash the same and consequently directing the first Respondent to register the unilateral cancellation deed presented by the petitioner dated 06.01.2023 within the time stipulated by this Court and grant such other and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.RM.Arun Swaminathan



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For Respondents : Mr.S.Shanmugavel
Additional Government Pleader for R.1

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ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for the first respondent.

2.The petitioner executed inam settlement deed dated 09.02.2016 in favour of the second respondent to register as Document No.146 of 2016. The petitioner now wants to unilaterally cancel the same. By the impugned refusal check slip, the petitioner's request was rejected and the cancellation deed was returned. Challenging the same, the present writ petition has been filed.

3.The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to interfere in the matter and grant relief as prayed for.

4. I am not persuaded by the said submissions. As rightly pointed out by the learned Additional Government Pleader the issue is no longer *res integra*. The Hon'ble Full Bench of the Madurai Bench of Madras High Court in the decision reported in W.P(MD)No.6889 of 2020 etc batch (***Sasikala & Others Vs The Revenue Divisional Officer cum Sub Collector & Others***) had held as follows:



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*“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 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.



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(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.”

5.In view of the same, the order impugned in the writ petition cannot be interfered with. The petitioner has to necessarily move the jurisdictional civil Court for relief. With this liberty to the writ petitioner to work out her rights as per law, this writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

24.01.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA



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To

The Sub Registrar,
Manamelkudi,
Pudukottai District.



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G.R.SWAMINATHAN, J.

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