



W.P.(MD)No.2628 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2023

C O R A M

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.2628 of 2021

and

W.M.P.(MD)Nos.2167 to 2169 of 2021

Joshua Chandra Sekar

... Petitioner

-VS-

1.The State of Tamil Nadu,
Rep. by Inspector General of Registration,
Chennai.

2.The Deputy Registrar,
Thoothukudi District,
Thoothukudi.

3.The Sub Registrar Office,
Nazareth Sub Registrar Office,
Nazareth,
Thoothukudi District.

4.Durairaj

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned cancellation deed in Doc.No.598/2008, dated 13.05.2008, quash the same as *per se* illegal and consequently, direct the third



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respondent to remove the entry of the impugned cancellation deed in Doc.No. 598/2008, dated 13.05.2008 from the encumbrance certificate.

For Petitioner : Mr.P.M.Vishnuvarthanan
For R1 to R3 : Ms.D.Farjana Ghoushia
Special Government Pleader
For R4 : No Appearance

ORDER

This Writ Petition has been filed challenging the registration of the unilateral cancellation of the settlement deed, dated 13.05.2008, on the ground that it is illegal and *non est* in the eye of law.

2. Heard the learned counsel appearing on behalf of the petitioner and the learned Special Government Pleader appearing on behalf of the respondents 1 to 3. Though the fourth respondent has been served with notice and his name has also been printed in the cause list, there is no representation either in person or through counsel.

3. The fourth respondent, who is the father of the petitioner, had executed a settlement deed, dated 20.04.2004, in favour of the petitioner, which was registered as Document No.316 of 2004. By virtue of this settlement deed, the property was absolutely settled in favour of the petitioner



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and the fourth respondent did not reserve any rights to cancel the settlement deed.

4. The grievance of the petitioner is that the fourth respondent by virtue of the cancellation deed, dated 13.05.2008, unilaterally cancelled the settlement deed executed in favour of the petitioner. Since the document was entertained and registered, the same has been put to challenge in this Writ Petition.

5. The issue involved in this Writ Petition is squarely covered by the earlier order passed by this Court. This Court categorically held that where a settlement deed has been executed and the property has been absolutely vested with the setlee without the settlor reserving any right for cancellation of the document, the settlement deed cannot be unilaterally cancelled and entertaining such a document and registering the same is illegal and *non est* in the eye of law.

6. In view of the above, the unilateral cancellation deed, dated 13.05.2008, is hereby quashed as illegal and *non est* in the eye of law.



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7. In the result, this Writ Petition stands allowed. No costs.

Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes/No

Index : Yes/No

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14.12.2023

To

1.The Inspector General of Registration,
State of Tamil Nadu,
Chennai.

2.The Deputy Registrar,
Thoothukudi District,
Thoothukudi.

3.The Sub Registrar,
Nazareth Sub Registrar Office,
Nazareth,
Thoothukudi District.



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N.ANAND VENKATESH, J.

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