



W.P.(MD)No.14675 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.14675 of 2020

and

W.M.P.(MD).Nos.12331 and 12332 of 2020

J.Vadivelraja

... Petitioner

Vs.

1.The Sub-Registrar,
Kovilpatti Sub-Registration Office,
Tuticorin District.

2.Suryakala

3.J.Thalasekar

4.J.Govindraj

5.Vasuki

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration, to declare that the impugned registration of unilateral cancellation deed of Settlement in Doc.No.2888/2004 dated 07.06.2004 as null and void and consequently direct the first respondent to remove the entry of encumbrance made regarding same in Book No.1 of his office.



WEB COPY



W.P.(MD)No.14675 of 2020

For Petitioner : Ms.Indhuja
For R-1 : Mr.A.K.Manikkam
Special Government Pleader
For R-5 : Mr.B.Narayana Sudalai Muthu
For R-2, R-3
and R-4 : No Appearance

ORDER

This Writ Petition has been filed questioning the unilateral cancellation of the settlement deed through the deed of cancellation dated 07.04.2004.

2. Heard the learned counsel appearing on behalf of the petitioner, the learned Special Government Pleader appearing on behalf of the first respondent and the learned counsel appearing on behalf of the fifth respondent.

3. The case of the petitioner is that the subject property was originally owned by his father V.V.Jeyaraj and he executed a registered settlement deed dated 13.11.1998, registered as Document No.3721 of 1998, in favour of the petitioner. The settlement deed specifically provided that the settlor did not



W.P.(MD)No.14675 of 2020

retain any right over the property or reserved any right to cancel the settlement deed and the absolute right was vested on the petitioner.

4. Pursuant to the settlement deed executed in favour of the petitioner, the petitioner got his name mutated in the revenue records and was also paying the necessary tax. Even during the life time of his father, he along with his father had entered into a tenancy agreement.

5. The father of the petitioner died on 07.11.2019. At that point of time, the second respondent was attempting to interfere with the possession and enjoyment of the property. Only then, the petitioner came to know that his father had unilaterally cancelled the settlement deed through a deed of cancellation dated 07.04.2004.

6. The petitioner has questioned the registration of the unilateral cancellation deed mainly on the ground that the document ought not to have been entertained, since the property was absolutely vested with the petitioner and the father did not retain any right to cancel the settlement deed. Accordingly, this Writ Petition has been filed before this Court.



W.P.(MD)No.14675 of 2020

7. The learned counsel for the petitioner placed reliance upon the judgment passed by this Court in the case of *Sunitha Vs The Sub Registrar, Purasaiwalkam, Chennai – 600 007 and others* reported in 2022 2 Writ.L.R 403 and contended that the unilateral cancellation is non-est in eye of law and the same ought not to have been entertained by the first respondent.

8. The private respondents have been served with the notice and their names have also been printed in the cause list.

9. In the considered view of this Court, the issue involved in this Writ Petition is squarely covered with the earlier judgment/order passed by this Court. The first respondent ought not to have entertained the deed of cancellation dated 07.04.2004, since the property had absolutely vested in favour of the petitioner and the petitioner's father did not reserve any right to cancel the settlement deed. If at all there was any grievance for the petitioner's father, he should have only approached the competent civil Court seeking for the cancellation of settlement deed. In view of the same, the cancellation of settlement deed through the cancellation deed dated 07.04.2004 requires the interference of this Court.



W.P.(MD)No.14675 of 2020

WEB COPY 10. In the result, this Writ Petition is allowed as prayed for. No costs.

Consequently, connected miscellaneous petitions are closed.

14.12.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To

The Sub-Registrar,
Kovilpatti Sub-Registration Office,
Tuticorin District.



WEB COPY



W.P.(MD)No.14675 of 2020

N.ANAND VENKATESH, J.

Nsr

W.P.(MD)No.14675 of 2020

14.12.2023