



W.P.(MD)No.17390 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.12.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.17390 of 2020

and

W.M.P.(MD)No.14528 of 2020

A.Selvam

... Petitioner

vs.

1.The District Registrar,  
Madurai District, Madurai.

2.The Sub-Registrar,  
Melur North, Melur, Madurai District.

3.Alagu Singh

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned Cancellation of Settlement deed in Document No.2767 of 2007 dated 26.06.2007 subsequently registered Gift Settlement deed in Document No.2934 of 2007 dated 05.07.2007 in favour of the 3<sup>rd</sup> respondent on the file of the 2<sup>nd</sup> respondent herein quash the same as illegal and consequently direct the 2<sup>nd</sup> respondent herein to delete the entry of above said documents from the Encumbrance Certificate.



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For Petitioner :Mr.P.Sethupathi  
For R1 and R2 :Ms.S.Jeyapriya  
Government Advocate  
For R3 :Mr.K.Sengiskhan  
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### **ORDER**

This Writ Petition has been filed challenging the registration of unilateral cancellation of settlement deed, dated 26.06.2007 and also the subsequent gift deed that was executed in favour of the third respondent dated 05.07.2007 on the ground that it is illegal and non *est* in the eye of law.

2.Heard Mr.P.Sethupathi, learned Counsel appearing on behalf of the petitioner, Ms.S.Jeyapriya learned Government Advocate appearing on behalf of the respondents 1 and 2 and Mr.K.Sengiskhan, learned Counsel appearing on behalf of the third respondent.

3.The case of the petitioner is that his grandfather had executed a settlement deed in his favour through a settlement-cum-gift deed dated 19.05.2004 registered as Doc.No.1510 of 2004. In the settlement deed, it was specifically mentioned that the grandfather did not reserve any right



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to cancel or modify this settlement deed.

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4.The grievance of the petitioner is that the grandfather, thereafter, unilaterally cancelled the settlement deed through a cancellation deed, dated 26.06.2007 and thereafter, for the very same property, yet another gift deed/settlement deed was executed in favour of the third respondent. The same has been put to challenge in this Writ Petition.

5.The issue involved in this Writ Petition is no longer *res integra* and it is squarely covered by earlier orders passed by this Court. This Court has categorically held that a settlement deed cannot be unilaterally cancelled, more particularly, when the settlor had not reserved any right in the settlement deed. Even assuming that the petitioner had failed to take care of the settlor, as provided in the settlement deed, at the best, the settlor can only approach a competent civil Court and seek for cancellation of the document. The settlor is not vested with the power to unilaterally cancel a settlement deed with respect of a property that was absolutely settled in favour of a person.



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6.Hence, the authority ought not to have entertained the cancellation deed that was presented. In view of the same, the cancellation of settlement deed dated 26.06.2007 is non *est* in the eye of law and the registration of document is liable to be interfered with by this Court and the same is set aside. In view of the same, the subsequent gift deed that was executed in favour of the third respondent must also fall on the ground, since it is a consequence of the cancellation deed, dated 26.06.2007. Accordingly, this Writ Petition is allowed. If at all the parties are claiming for any *inter se* right, the same can only be agitated before the competent civil Court. No costs. Consequently, connected miscellaneous petition is closed.

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

**14.12.2023**

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To

1.The District Registrar,  
Madurai District, Madurai.

2.The Sub-Registrar,  
Melur North, Melur, Madurai District.

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**N.ANAND VENKATESH, J.**

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