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WP.No.6749 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **04.06.2024**

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THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

**W.P.No.6749 of 2024 &
WMP.Nos.7517 & 7520 of 2021**

R.Amrandaran

.. Petitioner

Versus

1. The Inspector General of Registration,
O/o.the IG Registration Department,
No.100, Santhome Highway, Santhome, Chennai – 600 004.

2. The District Registrar,
O/o. The District Registrar,
NH-45A, Villupuram Puducherry Road,
Villupuram District – 605 602.

3. The Sub Registrar,
Sub-Registrar's Office, No.17/3h, 161,
Tindivanam Main Road, Gingee – 604 202.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the third respondent in Cancellation of Settlement Deed in No.3189/2012 dated 08.11.2013 and Gift Deed in No.1907 of 2014 dated 23.07.2014 and quash the same.

For Petitioners : Mr.A.Muthukumar



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For Respondents : Mr.B.Vijay
Additional Government Pleader

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ORDER

With the consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed to quash the Cancellation of Settlement Deed in Document No.3189/2012 dated 08.11.2013 and Gift Deed in Document No.1907 of 2014 dated 23.07.2014.

3. Heard learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

4. It is the case of the writ petitioner that the petitioner's father executed a settlement deed dated 06.09.2017 in favour of the petitioner. Pursuant to the same, the petitioner took possession of the property and also mortgaged the property with the Co-operative Society and availed mortgage loan. However, unilateral cancellation deed came to be executed on 08.11.2013. According to



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the petitioner, unilateral cancellation cannot be valid in the eye of law. Hence, the present Writ Petition.

5. Counter has been filed by the respondents stating that at the relevant point of time, unilateral cancellation of settlement was vogue till the circular was issued by the first respondent on 29.11.2018. Hence, according to them, the registration of the document cannot be questioned at this stage.

6. Once, a settlement deed is executed, transfer of title is immediate and the title passes. Unless the right of revocation is reserved in the settlement deed, the settlement deed cannot be unilaterally cancelled. Only exception is Tamilnadu Welfare and Maintenance of Parents and Senior Citizens Act. Therein also, when the settlement is executed only for the purpose of maintaining the senior citizens and the same is not acted upon. Such a document can be cancelled. In such view of the matter, this Court is of the view that unilateral cancellation of the settlement by executing a cancellation deed is not permissible under law. Further, the Full Bench of this court in a decision in *Sasikala vs. Revenue Divisional Officer cum Sub Collector and another* made in W.P.(MD).Nos.6889 of 2020 etc., batch cases dated **02.09.2022** has 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.-vs Government 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.



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(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.

(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.

7. Hence, once a settlement was registered, title passed in presentee.



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If settlement is accepted and acted upon, the title passes immediately.

Thereafter, the settlor has no right, whatsoever, in the property. Such being the position, the settlor has no power to cancel such document unilateral and such registration will not convey any title automatically in favour of the settlor. In view of the above settled provision of law, unilateral cancellation of the settlement deed is not valid in the eye of law. Hence, the unilateral cancellation of the settlement deed is liable to be set aside.

8. Accordingly, this Writ Petition is allowed and cancellation of settlement deed dated 08.11.2023 and the gift deed dated 23.07.2014 are quashed. Consequently, connected miscellaneous petition is closed. No costs.

04.06.2024

vrc

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No

To,

1. The Inspector General of Registration,
O/o.the IG Registration Department,
No.100, Santhome Highway, Santhome, Chennai – 600 004.

2. The District Registrar,
O/o. The District Registrar,

<https://www.mhc.tn.gov.in/judis>



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NH-45A, Villupuram Puducherry Road,
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3. The Sub Registrar,
Sub-Registrar's Office, No.17/3h, 161,
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N. SATHISH KUMAR, J.

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