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WP.No.1490 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.1490 of 2022
and W.M.P.No.1637 of 2022

E.P.Palanisamy

.. Petitioner

Versus

1.The Inspector General of Registration
Santhome High Road
Pattinapakkam, Chennai.

2.The District Registrar
Coimbatore, Coimbatore District

3.The Sub Registrar
Madukkarai
Coimbatore District

4.E.P.Krishnakumar
5.P.K.S.Anandha Krishnan
6.P.K.S.Ramakrishnan
7.E.P.Jeevarathanakumar
8.Minor Kavin

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the order dated 31.12.2021 vide Proceedings in RFL/Madukarai/27/2021 on the file of 3rd respondent and quash the same and directing the 3rd respondent to register and release the cancellation of the settlement deed dated 24.11.2021 to the petitioner.



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For Petitioner : Mr.K.Myilsamy

For Respondents : Mr.J.Ravindran, AAG
assisted by Mr.Yogesh Kannadasan
Special Government Pleader for R1 to R3

No appearance for R4 to R8

ORDER

Challenge has been made as against the refusal checkslip dated 31.12.2021 refusing to register the settlement deed.

2. The writ petitioner has executed a settlement deed in favour of sons retaining the life interest on 01.06.2020. Thereafter, he has presented a document on 24.11.2021 styled as cancellation of settlement deed and the same was refused to be registered on the ground that unilateral cancellation is not permissible. Hence, this writ petitioner.

3. Heard both sides and perused the materials placed on record.

4. By consent of both parties, this writ petition is taken up for final disposal.

5. At the outset, this Court is of the view that once the settlement is



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executed and title is already passed in favour of the settlee, unilateral cancellation is not permissible under law and void ab initio. 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 :

“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



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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.

(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.



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6. That apart, cancellation of the settlement is only as per law and not by whims and fancies of the parties. Once the title is already passed, the settlor has not right to cancel the document to regain the title. Such view of the matter, I do not find any merits in the case and this Writ Petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

11.06.2024

dhk

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

To

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N. SATHISH KUMAR, J.

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