



W.P.No.3503 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.3503 of 2024

A.Velusamy

... Petitioner

versus

1.The Inspector General of Registration,
No.100, Santhome High Road,
Santhome, Chennai – 600 028.

2.The Sub Registrar,
Nolambur Combined Sub Registrar Office,
No.576, Mogappair West,
Ambattur Industrial Estate,
Chennai – 600 037.

3.A.V.Rajaram

.....Respondents

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus, to direct the second respondent to register the cancellation deed, dated 01.02.2024 to cancel the settlement deed which was



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executed on 28.05.2020, vide Doc.No.1449/2020 on the file of the second respondent.

For Petitioner : Mr.Thenmozhi Shivaperumal
For Respondents : Mr.R.Neethi Perumal
Government Advocate
for R1 and R2

ORDER

Mr.R.Neethi Perumal, learned Government Advocate accepts notice for respondents 1 and 2.

2. This writ petition has been filed seeking for issuance of a writ of mandamus, directing the second respondent to register the cancellation deed dated 01.02.2024, in and by which, he sought to cancel the settlement deed which was executed on 28.05.2020, vide Doc.No.1449/2020 on the file of the second respondent.



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3. The case of the petitioner is that he has executed a settlement deed dated 28.05.2020 in favour of his elder son, Rajaram, the third respondent herein. The said settlement deed is a conditional settlement i.e. the settlement deed will come into effect only after the lifetime of the settlor. Further, the title of the property has not been transferred and the petitioner is in possession of the said property. Since the third respondent did not take care of the petitioner, he decided to cancel the settlement deed and sent a notice to the third respondent (settlee) to come for cancellation of settlement, but he did not come, and started harassing the petitioner. Therefore, the petitioner filed a suit in O.S.No.6302 of 2022 on the file of the V Assistant City Civil Court, Chennai for permanent injunction restraining the third respondent herein and one another and obtained an ex-parte decree on 27.11.2023 in his favour. The Civil Court has given clear finding that the settlement deed will come into effect only after the lifetime of the petitioner. While so, the petitioner presented the cancellation deed before the second



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respondent on 01.02.2024, to cancel the settlement deed dated 28.05.2020.

However, the second respondent refused to cancel the settlement deed stating that unilateral cancellation is not permitted. Challenging the same the present writ petition has been filed.

4. The learned counsel for the petitioner submitted that the second respondent ought to have registered the cancellation of settlement deed, as the settlement deed will come into effect only after the lifetime of the petitioner. The title of the property has not been transferred in the name of the third respondent (settlee) and the petitioner (settlor) is in possession of the property in question and the settlor is having all the original documents. Further, the settlement deed is sought to be cancelled after putting the third respondent on notice, while so, the cancellation is not unilateral. The learned counsel further submitted that the petitioner has come forward with the present writ petition praying for a mandamus simpliciter to direct the official



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respondents to register the cancellation deed, when it was refused to be entertained.

5. The learned Government Advocate appearing for respondents 1 and 2 submitted that unilateral cancellation is not permissible in law and hence, the second respondent has refused to register the cancellation of settlement deed.

6. The learned counsel for the petitioner has drawn the attention of this Court that the petitioner has already sent a notice to the settlee to come for cancellation of settlement deed in question. The settlee did not come forward to cancel the settlement deed, but started harassing the petitioner and hence, the petitioner has filed a suit in O.S.No.6302 of 2022 and obtained an ex-parte decree on 27.11.2023 in respect of the property in question. The learned counsel further contended that the recital in the



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settlement deed dated 28.05.2020, makes it clear that the settlement comes into effect only after the lifetime of the petitioner and thereafter, the property shall go to the beneficiary/settlee. Further, during the lifetime of the petitioner, he can cancel the settlement deed, since transfer of interest is not passed on to the settlee.

7. It is settled proposition of law that unilateral cancellation of the settlement deed is not permissible in law. This Court and the Hon'ble Supreme Court, time and again, reiterated that unilateral cancellation of settlement is not valid and that it will not bind the settlee and not affect the interest of the settlee.

8. On a *prima facie* perusal of the settlement deed, it is seen that it is not a settlement deed at all and though the nomenclature of the document is shown as settlement deed, it is only a Will. Thus, the testator of the Will can



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cancel the same at any time during his lifetime and therefore, notice to the third respondent herein is dispensed with.

9. In view of the above, the second respondent is directed to register the document executed by the petitioner seeking for cancellation of settlement deed dated 01.02.2024.

10. With the above direction, the writ petition is allowed. However, there shall be no order as to costs.

15.02.2024

Index: Yes/No

Speaking Order : Yes/No

Neutral Citation Case : Yes/No

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To

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