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W.P.No.3275 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.03.2024

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THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.3275 of 2024

D.Suguna Sundari

... Petitioner

Versus

1. The Inspector General of Registration,
O/o. The Inspector General of Registration,
Santhome High Road,
Mylapore, Chennai – 600 004.
2. The District Registrar,
Office of the District Registrar,
Chennai – Central District,
Chennai.
3. The Sub Registrar,
Office of the Sub Registrar,
Purasaiwalkam, Chennai - 600007.

4. G.Prabhakaran

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus to call for entire records pertaining to the impugned unilateral cancellation of settlement deed dated 05.06.2014 registered as Document No.2464 of 2014 on the file of SRO,



W.P.No.3275 of 2024

Purasaiwalkam, 3rd respondent herein executed by my deceased father Govindarajulu and quash the same and consequently direct the respondents 1 to 3 herein to delete the entries reflecting the aforesaid impugned document from the register including encumbrance maintained by the third respondent with respect to the property situated in Sarma Nagar comprised in Survey No.766-Part in Perambur, Chennai within the Sub Registration District of Purasawakkam and Registration District of Chennai Central.

For Petitioner : Mr.L.N.Pragasam

For Respondents : Mr.Yogesh Kannadasan,
Spl. Government Pleader for RR1 to 3

Mr.B.Damodaran for R4

ORDER

This writ petition has been filed seeking to declare the unilateral cancellation of settlement deed dated 05.06.2014 registered as Document No.2464 of 2014 on the file of the third respondent.

2 Learned counsel for the writ petitioner would submit that her deceased father had purchased 750 sq.ft. of land along with 550 sq.ft. of building in Sarma Nagar in Survey No.766-Part in Perambur, Chennai, within



W.P.No.3275 of 2024

the Sub-Registration District of Purasawakkam and Registration District of Chennai Central, from the Tamil Nadu Housing Board by Deed of Sale dated 30.07.1999 registered as Doc.No.2667/1999 in the office of the Sub-Registrar at Purasawakkam, Chennai, which was settled by him in favour of the petitioner vide Deed of Settlement dated 03.04.2006 registered as Doc.No.1430/2006. Thus the petitioner became absolute owner of the said property and the Deed of Settlement Clauses I to VII clearly state that this Deed of Settlement is final and irrevocable. Thereafter the petitioner constructed pucca new building by availing loan and lived there with her deceased father and mother. In the year 2014 when the petitioner along with her child went to United States of America, the deceased father unilaterally cancelled the Deed of Settlement vide Cancellation Deed dated 05.06.2014 Doc.No.2464/2014 and he along with fourth respondent, who is none other than the brother of the petitioner executed sale deed in favour of the fourth respondent vide Sale Deed dated 03.12.2014 registered as Doc.No.5121/2014.

2.1 Learned counsel would further submit that the third respondent ought not to have registered the impugned unilateral cancellation of settlement deed dated 05.06.2014 without consent and signature of the beneficiary of the original Settlement Deed dated 03.04.2006 that was executed before 8 years



W.P.No.3275 of 2024

from the date of impugned registration of the unilateral cancellation of settlement deed. In the Deed of Settlement itself it is clearly stated that the Settlement is final and irrevocable and neither the Settlor nor any of the legal heirs of the Settlor will have any other right over the settled property other than the settlee viz. the petitioner herein. Even though it is settlement deed, when it falls under Section 126 of the Transfer of Property Act, 1882, which states about the revocable of Settlement Deed, it can be cancelled, but, in the present case, there is no clause under Section 126 of the Transfer of Property Act, 1882, and it is clearly stated that the settlement is irrevocable. Therefore the deceased father cannot unilaterally cancel the settlement deed. The Hon'ble Supreme Court and this Court time again held that unilateral cancellation is void. In support of his contention, the learned counsel placed reliance on the decisions of the *Hon'ble Supreme Court reported in 1998 (4) SCC 577, 2009 (2) SCC 784* and the decisions rendered by the *Hon'ble Full Bench of this Court reported in 2011 (2) CTC 1 and 2022 0 AIR(Mad) 323*.

2.2 The learned counsel for the petitioner would submit that aggrieved by the action of the third respondent, the petitioner also filed a civil suit initially before this Court and due to enhancement of pecuniary jurisdiction of Subordinate Courts, the suit was transferred to XX Additional Judge, City Civil



W.P.No.3275 of 2024

Court, Chennai at Allikulam and re-numbered as O.S.No.1530 of 2019, which is pending. The petitioner is also ready to withdraw the suit with regard to the prayer (a), which is similar to the prayer sought for in the writ petition and she may reserves her right to continue the suit with regard to the other prayers.

2.3 Therefore, at any angle the unilateral cancellation is not valid and third respondent without considering the legal positions registered the cancellation of settlement deed executed by the deceased father, which is not sustainable in law.

3 Learned Special Government Pleader for the respondents 1 to 3 would fairly conceded that unilateral cancellation is not permissible in law.

4 Learned counsel for the fourth respondent would submit that the registration authority can only reassure himself that the document to be registered is accompanied by supporting documents and he could not evaluate the title or irregularity in the document. Therefore since the document was presented by the executor, the third respondent registered the same. Further the person, who executed the settlement deed and the subsequent cancellation of settlement deed is no more and the writ petitioner did not implead all the legal



W.P.No.3275 of 2024

heirs of the deceased settlor. Further it is an admitted fact that the petitioner also filed a civil suit for the same relief sought for in the writ petition. Therefore the present writ petition is liable to be dismissed.

5 Heard the respective counsel and perused the materials available on record.

6 Admittedly the Deed of Settlement was executed in favour of the writ petitioner on 03.04.2006 and subsequently in the year 2014 the settlor cancelled the settlement deed and conveyed the property in favour of the fourth respondent, who is the son of the settlor and brother of the writ petitioner. Thereafter the petitioner filed a civil suit in the year 2018 before this Court and later it was transferred due to enhancement of pecuniary jurisdiction, which is now pending before the XX Additional Judge, City Civil Court, Chennai at Allikulam, in O.S.No.1530 of 2019 for the very same relief sought for in the present writ petition. Now, pending the above said suit, taking advantage of the decisions rendered by the Hon'ble Full Bench, the petitioner has filed the present writ petition.



W.P.No.3275 of 2024

WEB COPY 7

There is no quarrel with the decisions referred to by the learned counsel for the writ petitioner. It is also true that when there is no reference in the settlement deed with regard to Section 126 of the Transfer of Property Act, the settlor cannot unilaterally cancel the settlement deed. However, in the present case, the writ petitioner already approached the Civil Court and the suit is pending for the very same relief and there cannot be parallel proceedings for the same relief.

8 In view of the above, the writ petition shall stand dismissed. However the petitioner is liberty to workout his remedy in the manner known to law. Further since the suit is pending from the year 2018, the trial Court is directed to dispose of the suit within a period of four months from the date of receipt of a copy of this order. Both the parties are directed to extend their fullest cooperation for the early disposal of the suit. There shall be no order as to costs.

27.03.2024

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W.P.No.3275 of 2024

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WEB COPY



W.P.No.3275 of 2024

P.VELMURUGAN, J.,

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W.P.No.3275 of 2024

27.03.2024