



W.P.No.15714 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.15714 of 2016

1.P.Palani (deceased)

2.Saroja Ammal

3.P.Visalakshi

4.P.Shalinisri

5.P.Monisrika

6.P.Ezhilarasi

7.P.Viswanatha

(P4 to P7 are minors and are represented by their mother and natural guardian, the second petitioner)

(P2 to P7 are substituted as LR's of deceased P1 by B.R.J. In WMP.No.33383 of 2016 in W.P.No.15714 of 2016)

...Petitioners

-Vs-

1.The State of Tamil Nadu,
Rep. by the Secretary,
Commercial Taxes and Registration Department,
Secretariat,
Fort St.George,
Chennai – 600 009.

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



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3.The District Registrar of Registration,
Kanchipuram District,
Kanchipuram.

4.The Sub-Registrar,
Walajahbath,
Kanchipuram District.

5.N.Rajagopal Pillai (deceased)

6.Mangai Lakshmi (deceased)

7.R.Sampath Kumar

8.R.Santhanakrishnan

9.R.Balakrishnan

10.Yesodha

11.R.Hariraman

12.R.Jayachandran

13.R.Venkataraman

(R8 to R13 are impleaded as LR's of deceased R5 & R6 vide order dated 27.06.2024 by JSNPJ in W.M.P.NO.26548 of 2021 in W.P.No.15714 of 2016)

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Declaration to declare the Deed of Cancellation dated 11.07.2012, registered as Document No.4154 of 2012 on the file of the fourth respondent, executed by the fifth and sixth respondent, whereby cancelling the Settlement Deed dated 22.06.2005 registered as Document No.2836 of 2005 on the file of the fourth respondent executed by the fifth and sixth respondent in favour of the seventh respondent as NULL AND VOID.



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For Petitioners : Mr.V.R.Thangavelu

For R1 to R4 : Mr.P.Ananda Kumar,
Government Advocate

For R5 & R6 : Deceased

For R8 to R13 : No steps taken

ORDER

This writ petition is filed to declare the Deed of Cancellation dated 11.07.2012, registered as Document No.4154 of 2012 on the file of the fourth respondent, executed by the fifth and sixth respondent, whereby cancelling the Settlement Deed dated 22.06.2005 registered as Document No.2836 of 2005 on the file of the fourth respondent executed by the fifth and sixth respondent in favour of the seventh respondent as NULL AND VOID.

2. The case of the petitioners is that the respondents 5 & 6 have executed a deed of settlement dated 22.06.2005 as Doc.No.2836 of 2005 in favour of son viz., R.Sampath Kumar, who is the seventh respondent. The said Sampath Kumar has owned and possessed the properties covered under the Settlement Deed including an extent of 1 acre in Punjai S.No.774/5 situated at No.92 Uthukadu Mathura Bootheri Village, Kanchipuram District.



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For the aforesaid property, the seventh respondent has executed a Deed of Power of Attorney in favour of his agent named E.Gajendran. Later, the respondent has also mutated the revenue records in his name on the basis of the deed of settlement dated 22.06.2005.

2.1. This being so, the petitioner (deceased) has purchased the aforesaid subject matter property from the seventh respondent and registered the same as Doc.No.4332 of 2012 on 06.07.2012. When the petitioner placed his representation for mutation of revenue records, he came to know that the respondents 5 & 6 have objected to mutate the revenue records alleging that they have cancelled the deed of settlement given in favour of the seventh respondent and registered the said document as Doc.No.4154 of 2012. Aggrieved over the same, the petitioner has come forward with the present writ petition seeking direction to declare the Doc.No.4154 of 2012 as null and void.

3. The learned Government Advocate appearing for respondents 1 to 4 fairly submitted that the unilateral cancellation of the settlement deed is *void ab initio* as per the judgment of the Full Bench of this Court in ***W.P.(MD).Nos.6889 of 2020 etc., batch cases dated 02.09.2022*** in the case



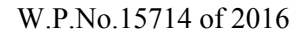
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of **Sasikala vs. Revenue Divisional Officer cum Sub Collector and another.**

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4. Learned Government Advocate relied upon an order of this Court in the case of ***N.C.Jayashree Vs. The Inspector General of Registration, No.100, Santhome High Road, Pattinampakkam, Chennai – 600 028***, in ***W.P.No.9007 of 2024 dated 03.04.2024***, wherein this Court held as follows:

“Though the registration of the document would not fall within the ambit of Sections 22-A or 22-B of the Registration Act and 77-A of the said Act, the fact remains that the very unilateral cancellation itself is prohibited under law, in fact, a circular dated 05.10.2007 issued by the Registration Department was already in vogue. The said circular was issued to all by the Deputy Inspector Generals of Registration, District Registrars and Sub Registrar directing them that the deed of cancellation should bear the signature of both the vendor and purchaser. Though that relate to the sale deed, the settlement is also the transfer of the property, in present like a sale deed. When the circular in this regard require both parties signature, the Sub-Registrar at the time of entertaining the document for unilateral cancellation ought to have rejected the said document. The same is not done in this case. As rightly pointed out by the learned Special Government Pleader, the Full Bench has repeatedly held that the unilateral cancellation is void ab initio.”



6. In view of the above submission made by the learned counsel on either side and the ratios laid down by the Full Bench of this Court 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,*** which was followed by the learned Judge of this Court in ***N.C.Jayashree Vs. The Inspector General of Registration, No.100, Santhome High Road, Pattinampakkam, Chennai – 600 028 made in W.P.No.9007 of 2024 dated 03.04.2024,*** this Court is of the considered view that the unilateral cancellation of the settlement deed vide Doc.No.4154 of 2012 dated 11.07.2012 is *void ab initio* and the same is set aside.

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To

- 1.The Secretary,
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J.SATHYA NARAYANA PRASAD, J.

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