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W.P.No.6758 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.6758 of 2018
and W.M.P.No.8381 of 2018

M.Vijayalakshmi

...Petitioner

-Vs-

1.The Inspector General of Registration,
Santhome, Chennai.

2.The Sub-Registrar,
Sub-Registrar Office,
Villivakkam.

3.M.Vishnuram

...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 that the impugned deed of cancellation of settlement deed dated 10.10.2013 registered as document No.5426 of 2013 and subsequent transaction namely settlement deed dated 23.12.2013 vide document No.6665 of 2013 on the file of the second respondent are null and void and non-est in the eye of law and pass such further orders.

For Petitioner : Mr.T.Balaji



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W.P.No.6758 of 2018

For R1 & R2 : Mr.K.Yogesh Kannadasan
Special Government Pleader

For R3 : Mr.A.Prakash

ORDER

This writ petition is filed for issuance of a Writ of Declaration, to declare that the impugned deed of cancellation of settlement deed dated 10.10.2013 registered as document No.5426 of 2013 and subsequent transaction namely settlement deed dated 23.12.2013 vide document No.6665 of 2013 on the file of the second respondent are null and void and non-est in the eye of law.

2. The case of the petitioner is that the third respondent is her brother. The petitioner's father late Mr.A.Mohanram purchased the property by virtue of registered sale deed dated 24.08.1994 under Doc.No.2346 of 1994. The petitioner's father executed a registered settlement deed dated 07.10.2008 bequeathing the property bearing D.No.S.L.C.406 situated at TVS Avenue, 39th Street, Arinar Anna Nagar West Ext, Chennai – 101 in her favour vide Doc.No.3304 of 2008. On 07.06.2014, the petitioner's father died. During the midweek of May 2016 her mother informed her that the third respondent's henchmen came to the petitioner's house and informed that



W.P.No.6758 of 2018

the settlement deed dated 07.10.2008 was cancelled by her father and executed another alleged settlement deed dated 23.10.2013 in favour of the third respondent. Hence, on 24.10.2016 she applied for EC and came to know that the third respondent created a alleged cancellation deed dated 10.10.2013 vide Doc.No.5426 of 2013 and settlement deed dated 23.10.2013 vide Doc.No.6665 of 2013. On 12.12.2016, she applied for the copy of the above said alleged documents cancellation deeds and when she verified the above said alleged documents she came to know that the third respondent created the above said alleged documents. Aggrieved by the same, the petitioner has approached this Court by way of filing this writ petition.

3. Learned counsel for the petitioner submitted that the petitioner gave a complaint to the Commissioner of Police, Chennai and also gave a representation to respondents 1 and 2 but no action has been taken till date.

4. Though the counter has not been filed, the learned Special Government Pleader appearing for respondents 1 and 2 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***



W.P.No.6758 of 2018

etc., batch cases dated 02.09.2022 in the case of Sasikala vs. Revenue Divisional Officer cum Sub Collector and another.

5. Learned Special Government Pleader 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



W.P.No.6758 of 2018

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. Heard both sides and perused the materials available on record.

7. 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 dated 10.10.2013 is *void ab initio* and the same is set aside.

In the result, **the writ petition stands allowed.** No costs.

Consequently, connected miscellaneous petition is closed.

13.06.2024

cda

Index : Yes/No

Speaking/Non Speaking order



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W.P.No.6758 of 2018

J.SATHYA NARAYANA PRASAD, J.

cda

To

- 1.The Inspector General of Registration,
Santhome, Chennai.
- 2.The Sub-Registrar,
Sub-Registrar Office,
Villivakkam.

W.P.No.6758 of 2018

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