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WP.No.9687 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **03.06.2024**

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.9687 of 2021 & WMP.No.10271 of 2021

R.Arunkumar

.. Petitioner

Versus

1. The District Registrar,
Chidambaram, Cuddalore District.

2. The Sub Registrar,
Senthithope, Cuddalore District 608 702.

3. N.Sridhar

.. 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 2nd respondent pertaining to the deed of cancellation of settlement deed dated 27.01.2011 and executed by Sri. V. K. Narasimmalu Chettiar and registered as document No. 96 of 2011 and quash the same and further direct the 2nd respondent herein to remove all the entries pertaining to the cancellation deed dated 27.01.2011.

For Petitioners : Mr.A.Muthukumar

For Respondents : Mr.B.Vijay
Additional Government Pleader – R1 & R2

R 3 No appearance



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ORDER

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With the consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed to quash the deed of cancellation of settlement deed dated 27.01.2011 executed by Sri. V. K. Narasimmalu Chettiar and registered as document No. 96 of 2011 and further direct the second respondent herein to remove all the entries pertaining to the cancellation deed dated 27.01.2011.

3. Despite time granted several times, none appeared for the third respondent and no counter has been filed on his behalf. Hence, the third respondent is set exparte.

4. Heard learned counsel for the petitioner and the learned Additional Government Pleader appearing for the first and second respondents and perused the materials available on record.

5. It is the case of the writ petitioner that the petitioner's grand father executed a settlement deed in respect of 14 cents in favour of the pet on 28.04.



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and the petitioner was also put in possession of the property and patta has also been transferred in his name. While so, all of a sudden, in the year 2017, the settlement deed was cancelled unilaterally cancelled. This fact came to knowledge of the petitioner only on 28.09.2018. Hence, the present Writ Petition.

6. Counter has been filed by the second respondent stating that the question whether the settlement has been effected or not is a question of fact and there is no transfer of title by the operation of law as in the case of a sale.

7. Once, a settlement deed is executed and transfer of title is immediate and the title passes. Unless the right of revocation is reserved in the settlement deed, the settlement deed cannot be unilaterally cancelled. Only exception is Tamilnadu Welfare and Maintenance of Parents and Senior Citizens Act. Therein also, when the settlement is executed only for the purpose of maintaining the senior citizens and the same is not acted upon. Such a document can be cancelled. In such view of the matter, this Court is of the view that unilateral cancellation of the settlement by executing a cancellation deed is not permissible under law. Further, the Full Bench of this court in a decision in *Sasikala vs. Revenue Divisional Officer cum Sub Collector and*



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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 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.

8. In view of the above settled provision of law, unilateral



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cancellation of the settlement deed is not valid in the eye of law. Hence, the unilateral cancellation of the settlement deed is liable to be set aside.

9. Accordingly, this Writ Petition is allowed and cancellation of settlement deed dated 27.01.2011 is quashed and the second respondent is directed to remove all the entires pertaining to the cancellation of settlement deed dated 27.01.2011. Consequently, connected miscellaneous petition is closed. No costs.

03.06.2024

vrc

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No

To,

1. The District Registrar,
Chidambaram, Cuddalore District.
2. The Sub Registrar,
Senthithope, Cuddalore District 608 702.



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N. SATHISH KUMAR, J.

VRC

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