



WEB COPY



WP.No.8308 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2024

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

WP.No.8308 of 2024
and W.M.P.No.9272 of 2024

B.George Arogiyaraj

.. Petitioner

Versus

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

2.The District Registrar
District Registrar Office, Salem West
No.313, 3rd Floor
District Registration Office Campus
Kottai Main Road
Salem – 636 001

3.The Sub Registrar Joint – III
Salem West
No.314, 3rd Floor
Collectorate Campus
Salem – 636 001

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, calling for the concerned records relating to the order in No.46896/U5/ 2023 dated 29.02.2024 passed by the 1st respondent and quash the same and consequently direct the 1st respondent to cancel the gift settlement deed registered by the 3rd respondent vide document No.290/2009 dated 16.02.2009

<https://www.mhc.tn.gov.in/judis> For Petitioner : Mr.G.Pavendhan



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respondent to consider the appeal of the petitioner dated 06.07.2023 and pass orders within a period of twelve weeks from the date of receipt of a copy of that order. The first respondent, once again, by way of the impugned order confirmed the order of the District Registrar holding that the case of the applicant will not fall under Section 77-B of the Registration Act. Challenging the same, this writ petition.

3. The learned counsel for the petitioner would submit that as the unilateral cancellation is not permissible and void ab initio, rejecting the application is not valid in the eye of law.

4. Though the counter has not been filed, the learned Special Government Pleader 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 of *Sasikala vs. Revenue Divisional Officer cum Sub Collector and another*.

5. Heard both sides and perused the materials placed on record. The settlement deed is originally executed in favour of the petitioner is irrevocable,



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power to rejection is not reserved in the document itself. Such being a position, once the transfer already took place on the date of settlement deed, cancelling the settlement deed unilaterally particularly when there is no power of rejection reserved in the document cannot be sustained in the eye of law.

6. 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-B 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 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, *presenti* 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.

7. Such view of the matter, when the registration of the document



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itself is held to be void, allowing such document in entry namely the encumbrance will create further confusion in respect of the title of the petitioner. Such view of the matter outright rejecting the application under provisions of law cannot be sustained in the eye of law.

8. Accordingly, the impugned order is set aside. The official respondent is directed to make necessary entries in the encumbrance indicating that the cancellation deed registered on the file is void ab initio.

9. In view of the above, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition stands closed.

01.04.2024

dhk

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

To,

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N. SATHISH KUMAR, J.



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