



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.10321 of 2024

1.G.Subburaj
2.S.Karthikeyan

...

Petitioners

versus

1.The Inspector General of Registration,
Santhome High Road,
Chennai - 600 028.

2.The District Registrar (Admin),
District Registrar Office - Chennai South,
9, Jeenis Road, Saidapet,
Chennai - 600 015.

3.The Sub Registrar,
Kundrathur,
Sub Registrar Office,
NGS Enclave,
Near Sammandam Nagar Park,
Chennai - 600 069.

4.A.Seethalakshmi
5.G.Vijayalakshmi
6.A.Anubama
7.A.Divya

...

Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the proceedings of the third respondent in respect of Document Nos.12892/2014, dated 19.08.2014, 12893/2014, dated 19.08.2014, 13029/2014 dated 20.08.2014, and 13030/2014 dated 20.08.2014, on the file of the third respondent and to quash the same.

For Petitioners : Mr.M.C.Swamy

For Respondent Nos.1 to 3 : Mr.B.Vijay
Additional Government Pleader

For Respondent Nos.4 to 7 : No Appearance

ORDER

This Writ Petition has been filed to quash the proceedings of the third respondent in respect of Document Nos.12892/2014, dated 19.08.2014; 12893/2014, dated 19.08.2014; 13029/2014 dated 20.08.2014; and 13030/2014 dated 20.08.2014.

2. The case of the petitioners is that the first petitioner's father executed a settlement deed in his favour on 11.06.2008 *vide* Document No.6375/2008. Thereafter, the first petitioner, for the purpose of obtaining an education loan for his son, i.e. the second petitioner, came to know that the original settlement deed has been unilaterally cancelled. Hence, they seek to cancel the document.



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3. Despite notice being served to the other private respondents 4 and 6, they have not appeared before this Court. The respondents 5 and 7 refused to receive the notice. Therefore, as the respondents 4 to 7 have not appeared despite an opportunity given to them, this Court is inclined to pass orders in this writ petition.

4. Heard the learned counsel for the petitioners and the learned Additional Government Pleader for the respondents 1 to 3 and perused the materials available on record.

5. Once, a settlement deed is executed, 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, provided the settlement is executed only for the purpose of maintaining the senior citizens and the same is not acted upon. 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 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.-vs Government 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.



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(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.”

6. In view of the above settled provision of law, unilateral 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. It is for the parties to establish their stand over the properties in a proper civil suit.

7. With the above observation, this Writ Petition is allowed and the proceedings of the third respondent in respect of the Document Nos.12892/2014, dated 19.08.2014; 12893/2014, dated 19.08.2014; 13029/2014 dated 20.08.2014; and 13030/2014 dated 20.08.2014 are hereby quashed. No costs.

26.06.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

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