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W.P. No.10810 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.10810 of 2024 and
W.M.P. No.11913 of 2024

G.Suganraj

... Petitioner

Vs

The State rep by the

1.The District Registrar - Coimbatore
Collectorate Office Compound
Coimbatore - 641 018

2.The Sub Registrar - Singanallur
Office of the Sub Registrar
Vellore Road, Coimbatore - 641 016

3.Mrs.Rangamal

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified mandamus to call for the records of the 2nd respondent and quash the unilateral cancellation of the Settlement Deeds bearing Document Nos.6880 of 2006 and 6881 of 2006 on the file of Sub Registrar, Singanallur and direct the 2nd respondent to remove the encumbrance entries of the above mentioned documents.



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For Petitioner : Mr.V.S.Senthil Kumar

For Respondents : Mr.P.Anandhakumar,
Govt. Advocate for R1 & R2
No Appearance for R3

ORDER

Challenge has been made to the unilateral cancellation of the settlement deed executed by the third respondent.

2. It is the case of the petitioner that the third respondent being the grandmother of the petitioner had executed two settlement deeds in favour his mother on 29.06.2006 vide Document No.4753 of 2006 and on 30.06.2006 vide Document No.4804 of 2006, registered on the file of the second respondent. Ever since the date of settlement, the petitioner and his mother are in possession of the property. Petitioner's mother died intestate on 03.09.2006 and within five days after the death of petitioner's mother, the third respondent has cancelled the settlement deeds executed by her in favour of her daughter by two cancellation deeds bearing Document Nos.6880 & 6881 of 2006. The said factum came to the knowledge of the petitioner only recently when he enquired



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the Registering Authority to enter the partition deed. Therefore, the writ petition came to be filed.

3. Notice sent to the third respondent has been served but none appears for the third respondent.

4. It is the contention of the learned counsel appearing for the petitioner that even the revenue records is still in the name of the petitioner and the family members and they are in possession of the property. Though there is a delay in approaching the court, such delay was due to the fact that the very cancellation itself came to the notice of the petitioner only recently. To substantiate his stand that they are in possession of the property, the revenue records obtained recently on 12.03.2024 and the patta have been produced for the perusal of this court. The same will indicate that the petitioner and his father are in possession of the property. Their names are also included in the patta. In such view of the matter, as far as the unilateral cancellation of the settlement deed is concerned, the same is not valid in the eye of law. This has been held so by the Full Bench of this court in a decision in ***Sasikala vs. Revenue Divisional Officer cum Sub***



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Collector and another made in W.P.(MD).Nos.6889 of 2020 etc., batch cases

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dated 02.09.2022. The relevant portion of the order is 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



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settlement deed is liable to be set aside. However, this will not prevent the third and fourth respondents to establish their right for claiming partition in the suit since the allegation of both sides refer to the joint family properties. It is for the parties to establish their stand over the properties in a proper civil suit.

5. Following the above decision, this Writ Petition is allowed and the unilateral cancellation of the Settlement Deeds bearing Document Nos.6880 of 2006 and 6881 of 2006 on the file of Sub Registrar, Singanallur are set aside. Consequently, connected miscellaneous petition is closed. No costs.

19.06.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

Asr

To

1.The District Registrar - Coimbatore
Collectorate Office Compound
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2.The Sub Registrar - Singanallur
Office of the Sub Registrar
Vellore Road, Coimbatore - 641 016

3.The Government Pleader



High Court, Madras

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N.SATHISH KUMAR, J.

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