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W.P. No.12067 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.12067 of 2024

K.Doraisamy

... Petitioner

Vs

1.The District Registrar
Tirupur
Tirupur District

2.The Sub Registrar
No.16, Mangalam Road
Palladam, Tirupur District

3.Karupusamy Muthusamy

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to cancel the Document No.3378/13 registered at Sub Registrar, Palladam dated 06.03.2013 and remove the entries in the encumbrance.

For Petitioner : Mr.S.Doraisamy

For Respondent : Mr.B.Vijay
Addl. Govt. Pleader for R1 & R2



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ORDER

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This writ petition has been filed for a direction to the respondents to cancel the document dated 06.03.2013 registered as Document No.3378/13, on the file of Sub Registrar, Palladam and remove the entries made in the encumbrance.

2. It is the grievance of the writ petitioner that the petitioner's father had executed a settlement deed in favour of the petitioner on 22.05.2009. Pursuant to the said settlement deed, the petitioner is in possession of the property and all of a sudden, the said settlement deed has been cancelled unilaterally on 06.03.2013 by the third respondent. Not stopping with that, he has also given a complaint before the Revenue Divisional Officer for maintenance. The Revenue Divisional Officer has directed the petitioner to pay a sum of Rs.10,000/- per month with a right to residence till lifetime. That order has been challenged by the father of the petitioner before the District Collector, Tiruppur. On 08.09.2021, an ex-parte order was passed. However, according to the learned counsel appearing for the petitioner, the unilateral cancellation of the document cannot be sustained in the eye of law.



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3. The third respondent, despite service of notice and his name has been printed in the cause list, has not chosen to appear before the court, either in person or through counsel.

4. As far as unilateral cancellation of settlement is concerned, it is well settled that once a settlement deed was executed and the passing of title is immediate, the settlor already divested the title, he will not retain any right over the property, which has already been settled. Therefore, unless the right of revocation is reserved in the settlement deed, the settlement deed cannot be cancelled unilaterally. The 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 another made in W.P.(MD).Nos.6889 of 2020 etc., batch cases dated 02.09.2022*** has held as follows :



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"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.

(c) Such unilateral cancellation of sale deed or deed of conveyance cannot be accepted for registration.



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(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.

5. 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.



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6. With the above observation, this Writ Petition is allowed and cancellation deed dated 06.03.2013 registered as Document No.3378/2013 on the file of Sub Registrar, Palladam is set aside. No costs.

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Index : Yes / No

Neutral Citation : Yes / No

Asr

To

1.The District Registrar

Tirupur

Tirupur District

2.The Sub Registrar

No.16, Mangalam Road

Palladam, Tirupur District

3.The Government Pleader

High Court, Madras



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N.SATHISH KUMAR, J.

Asr

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