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W.P.No.27515 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.No.27515 of 2019
and W.M.P.No.26998 of 2019

D.G.Nathan

... Petitioner

Versus

1. The Inspector General of Registration,
Chennai.

2. The District Registrar
O/o the District Registrar Office
No.2, S.Pillaiar Street
Kuralagam, North Chennai, Chennai – 600 104

3. The Sub Registrar,
Ambattur, Chennai

.. Respondents

Prayer:- Writ Petition filed under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent in Lr.No.3199/A1/2018 dated 24.04.2018 and quash the same and consequently direct the 2nd respondent to cancel the Doc.No.4617 of 2001 sought for in the line of cancellation document.

For Petitioner : Mr.N.Nagalakshmi

For Respondents : Mr.B.Vijay
Additional Government Pleader



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ORDER

Challenging the order of the second respondent dated 24.04.2018, wherein, the District Registrar has rejected the request of the petitioner to cancel the settlement deed.

2. It is the case of the writ petitioner that when the petitioner executed a cancellation of the settlement deed unilaterally, the same was refused to be registered. Challenging the same, this writ petition.

3. Heard both sides and perused the materials placed on record. This Court is of the view that unilateral cancellation of the settlement by executing a cancellation deed is not permissible under law and void ab initio. 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



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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.



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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.



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4. 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 order of the second respondent in refusing to register the unilateral cancellation of the settlement deed does not require interference.

5. Accordingly, I do not find any merits in the case and this Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

16.04.2024

Index:Yes/No

Neutral Citation : Yes/No

dhk

To,

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N.SATHISH KUMAR, J.

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