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W.P.No.13801 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.13801 of 2020

and

W.M.P.No. 17151 of 2020

R.Selvanayagam

...Petitioner

-Vs-

1. The District Registrar,
Kancheepuram District.
2. The Joint-I Sub Registrar,
Office of the Sub Registrar,
Kancheepuram.
3. N. Rajagopala Mudaliar (Deceased)
4. Thirunavukkarasu
5. R.Murugan
6. T.Vijaylakshmi
7. S.Arulselvi

(R4 to R7 substituted as LR's of Deceased
R3 vide order dated 07.08.2023 made
in W.M.P.No. 21124 of 2023 in W.P.No. 13801 of 2020)

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Declaration, to declare that the Deed of Cancellation executed by the third respondent dated 07.05.2015, registered as Document No. 1339 of 2015 on the file of the second respondent by canceling the Settlement Deed dated 22.05.2003 by the third respondent in favour of the petitioner as Document No. 958 of 2003 on the file of the second respondent herein as null and void and not binding on the petitioner's right over the property being all that piece and parcel of the property bearing Door No. 100, Melandai Raja Veethi, 4th Division, Kancheepuram Town and Taluk, Kancheepuram District, comprised in Town Survey No. 1870, measuring an extent of 990 Sq.ft. or thereabouts, together with superstructure existing thereon.

For Petitioner	:	Mr.K.V.Babu
For R1 and R2	:	Mr.P.Ananda Kumar Government Advocate
For R3	:	Died
For R4 to R6	:	No appearance
For R7	:	Steps due

ORDER

This writ petition is filed for issuance of a writ of Declaration, to declare that the Deed of Cancellation executed by the third respondent dated 07.05.2015, registered as Document No. 1339 of 2015 on the file of the



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second respondent by canceling the Settlement Deed dated 22.05.2003 by the third respondent in favour of the petitioner as Document No. 958 of 2003 on the file of the second respondent as null and void.

2. The petitioner's father originally executed a settlement deed in favour of the writ petitioner on 22.05.2003 under Document No. 958 of 2003 in the office of the second respondent. Ever since the date of settlement, the petitioner is the absolute owner and enjoyment of the property. When the matter stood thus, on 07.05.2015 under Document No. 1339 of 2015, the settlor has registered the cancellation deed unilaterally. According to the writ petitioner, such unilateral cancellation is not valid in the eye of law. Challenging the said registration of unilateral cancellation of the settlement deed, this writ petition is filed.

3. Though the counter has not been filed, the learned Government Advocate for respondents 1 and 2 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*.



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4. Learned Government Advocate relied upon an order of this Court in the case of ***N.C.Jayashree Vs. The Inspector General of Registration, No.100, Santhome High Road, Pattinampakkam, Chennai – 600 028***, in ***W.P.No.9007 of 2024 dated 03.04.2024***, wherein this Court held as follows:-

“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-A 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 by 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, in 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 Government Advocate, the Full Bench has repeatedly held that the unilateral cancellation is void ab initio.”



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5. Heard both sides and perused the materials available on record.

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6. In view of the above submission made by the learned counsel on either side and the ratios laid down by the Full Bench of this Court in ***Sasikala vs. Revenue Divisional Officer cum Sub Collector and another made in W.P.(MD).No. 6889 of 2020 etc., batch cases dated 02.09.2022,*** which was followed by the learned Judge of this Court in ***N.C.Jayashree Vs. The Inspector General of Registration, No.100, Santhome High Road, Pattinampakkam, Chennai – 600 028, in W.P.No.9007 of 2024 dated 03.04.2024,*** this Court is of the considered view that the unilateral cancellation of the settlement deed dated 10.10.2013 is *void ab initio* and the same is set aside.

7. In the result, the writ petition stands allowed. No Cost. Consequently, connected miscellaneous petition is closed.

18.06.2024

nsI

Index: Yes/No

Speaking Order : Yes/No

Neutral case citation: Yes/No



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J.SATHYA NARAYANA PRASAD, J.

ns1

To

1. The District Registrar,
Kancheepuram District.
2. The Joint-I Sub Registrar,
Office of the Sub Registrar,
Kancheepuram.

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