



W.P.No.15040 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.15040 of 2020
and
W.M.P.Nos.18733 and 18734 of 2020

Manjula ... Petitioner
Vs.

1.The Sub Registrar,
Ammapettai,
Erode District.

2.Nallasamy @ Nallasivam

3.Thenmozhi ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus Writ of Certiorarified Mandamus, calling for the records with respect to the impugned cancellation of Settlement Deed dated 26.09.2020 executed by the 2nd respondent and the same was registered by the 1st respondent in Doc.No.2440 of 2020, quash the same and consequently, direct the 1st respondent to remove the entry of the impugned cancellation of Settlement Deed dated 26.09.2020 in the Encumbrance Certificate.



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For Petitioner : Mr.R.Malliyappan

For Respondents : Mr.Yogesh Kannaasan
Special Government Pleader

Ms.K.Vjayalakshmi
for M/s.Doss and Viswa Associates
for R2

Mr.E.P.Senniyangiri
for R3

ORDER

Challenge has been made to the unilateral cancellation of the Settlement Deed registered by the 1st respondent.

2.The brief facts leading to the case is that the 2nd respondent being the father of the petitioner, executed a Settlement Deed in favour of the petitioner dated 18.08.2020. The said Settlement Deed is an irrevocable deed and after execution, the respondents have no right over the said property. The said document has been registered as Doc.No.1830/2020 before the 1st respondent. Pursuant to the said Settlement, the petitioner was put in possession and enjoyment the property. After execution of the Settlement Deed, the 2nd respondent has cancelled the Settlement Deed



unilaterally on 26.09.2020 and the said document has been registered on 18.08.2020. Challenging the said cancellation, the present Writ Petition has been filed.

3.The 1st respondent filed a counter to that effect that the document is presented for registration before the respondents. As a Statutory Authority, the respondent is bounden duty of registering the documents Therefore, the respondents have registered the document.

4.Heard the learned counsel appearing on either side and perused the material available on record.

5.On a perusal of the documents, it is seen that the Settlement Deed is an irrevocable deed and it is not even executed towards maintenance of the 2nd respondent. When the Settlement Deed executed without reserving any power or revocation, the Deed cannot be cancelled unilaterally. Once the Deed or Gift Deed is registered, the same can be cancelled in the manner known to law as contemplated under Section 126 of the Transfer of Property Act. That apart, the law has been well settled in this regard. The Full



Bench of this Court in **Sasikala v. Revenue Divisional Officer -cum- Sub Collector, Devakottai, Sivagangai District and another reported in 2022**

(3) MWN (Civil) 129 (FB) held that the unilateral cancellation of Settlement Deed is not permissible.

6.In such a view of the matter, the cancellation order passed by the 2nd respondent stands quashed and the 1st respondent is directed to make necessary entry in the Encumbrance Certificate. It is also brought to the notice of this Court that while admitting the Writ Petition, there was an interim order passed by this Court not to deal with any transaction based on the cancellation. Despite such interim orders communicated to the Registrar, it appears that the Partition Deed and other documents have been executed by the third parties. It is made clear that any such document will not convey any title to the parties since the same has been registered violating the interim orders of this Court. That apart, as the unilateral cancellation itself is found to be invalid, any right based on the subsequent document will automatically vanish.



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7.The contention of the impleading parties is that very Settlement Deed itself could not have been executed since the property is an ancestral property and the same will have to be dealt with separately in Civil Court.

8.The learned counsel for the petitioner would submit that the Contempt Petition in Cont.Pet.No.349 of 2024 filed by the petitioner has been withdrawn on 12.04.2024.

Accordingly, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition are closed.

12.04.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No
mps
To
The Sub Registrar,
Ammapettai,
Erode District.



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N. SATHISH KUMAR, J.

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