



W.P.No.17095 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2024

CORAM

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.17095 of 2021

and

WMP.No.18129 of 2021

M.Ravichandran

...Petitioner

Vs.

1. The District Collector,
(Senior Citizen and Maintenance
Welfare Appellate Tribunal)
Tiruppur, Tiruppur District.

2. The Revenue Divisional Officer,
(Senior Citizen and Maintenance
Welfare Appellate Tribunal)
Tiruppur District.

3. The Sub Registrar,
Palladam, Tiruppur District.

4. R.Muthusamy

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, call for the records of order dated 30.07.2021 vide proceedings in Muu.Mu.No.9424/2021/E1 on the file of first respondent and quash the same.

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For Petitioner : Mr.K.Myilsamy

For Respondents : Mr. V.Baranidharan
Additional Government Pleader,
for R1 to R3

ORDER

This writ petition is filed by the petitioner seeking to quash the impugned order passed by the first respondent vide proceedings dated 30.07.2021 in Muu.Mu.No.9424/2021/E1.

2. The learned counsel appearing for the petitioner submits that the petitioner is the son of the fourth respondent. The agricultural land and building measuring to an extent of 3.34 acres and cents and thereabouts comprised in Survey Nos.720/2D, 718/1, 838/6 situated at Kattaur village, Pongular, Palladam Taluk, Tiruppur District absolutely belongs to 4th respondent who is the father of the petitioner herein which devolved on him vide registered sale deed dated 13.07.1966, 17.02.2003 and partition deed dated 30.09.1976. Out of love and affection, the fourth respondent settled the subject property in favour of the petitioner herein vide registered settlement deed dated 23.01.2019 bearing Document No.662 of 2019 on the

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file of the third respondent. Thus, the settlement deed is an absolute one. On the ill advice of Shanthi who is the petitioner's sister, his father/fourth respondent filed a petition under Senior Citizens Act claiming maintenance and cancellation of settlement deed. The same was dismissed by the second respondent vide proceedings in P.Mu.3244/2020/E3 dated 17.12.2020. As against the order of the second respondent, the fourth respondent has preferred an appeal before the first respondent. The first respondent without even giving reasonable finding had simply allowed the appeal and accordingly, set aside the settlement deed by virtue of order dated 30.07.2021. Challenging the same, the present writ petition is filed.

3. The learned Additional Government Pleader appearing for the respondents 1 to 3 has filed a counter affidavit on behalf of the 1st respondent, wherein it appears that the disputed properties are belonging to the 4th respondent herein who is the father of the petitioner herein. During the Personal Enquiry conducted by the first respondent, the 4th respondent has given a statement that he has executed the above properties in favour of his son Ravichandran/petitioner herein with strong expectations that he



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would take care of himself at their old age and infirmity. While his expectation were totally shattered by his son, he was often brutally beaten up by him many times and that the 4th respondent has been facing many life threats from him and he was deprived of food stuffs during his day to day life. During his staying in Karappalayam, Kattur Village, Palldam Taluk, Tiruppur District, the petitioner also accompanied him. Hence, aggrieved by the orders of the Revenue Divisional Officer, Tiruppur, he requested the 1st respondent in his Appeal Petition dated 24.06.2021 to cancel the Settlement Document No.662/2019, Palladam Sub Registry dated 23.01.2019 executed by him and to restore the above said properties into his name so as to lead his remaining life peacefully.

4. During the personal enquiry conducted by the 1st respondent, the petitioner has stated that he is a bachelor. He is paying a sum of Rs.5000/- in his father's bank account towards medical expenses and for food and if he is willing to stay along with him he is ready to take care of his father. His younger sister Shanthi is maintaining his father now for nothing but only with a view to grabbing the above said properties in her



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favour. He is ready to give subsistence allowance to his father and requested to set aside the order passed in the appeal petition given by his father, the 4th respondent herein.

5. During the personal enquiry conducted by the 1st respondent on 26.07.2021, the statement of both the parties were collected and examined scrupulously. Considering the age, infirmity, etc, the requests in the Appeal Petition of the 4th respondent considered the issue positively in favour of the 4th respondent and set aside the proceedings of the Revenue Divisional Officer, Tiruppur and the Settlement Document, executed in favour of the petitioner by the 4th respondent in No.662/2019, Palladam Sub Registry dated 23.01.2019 was cancelled.

6. It is brought to the notice of the Court that the issue is squarely covered by the Full Bench decision of this Court vide order dated 02.09.2022 in W.P.(MD).Nos. 6889, 8330, 13297 of 2020, 11674 of 2015 and W.A(MD)No.800 of 2022 and C.M.P(MD).No.6797 of 2022 , wherein it has been held that an irrevocable settlement cannot be cancelled by the administrative authorities accordingly, he prayed for appropriate orders.



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7. The relevant portion of the Full Bench decision of this Court in vide order dated W.P.(MD).Nos. 6889, 8330, 13297 of 2020, 11674 of 2015 and W.A(MD)No.800 of 2022 and C.M.P(MD).No.6797 of 2022 is reads 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.-vsGovernment of Andhra Pradesh & Ors., reported in (2010) 15 SCC 207 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



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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.

(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 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



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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.

(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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45. *As a result of our forgoing conclusions, we answer the reference by holding that the Registrar has no power to accept the deed of cancellation to nullify the deed of conveyance made earlier, when the deed of conveyance has already been acted upon by the transferee. Since anyone may try to mislead or misinterpret our judgment by referring to the question of reference we insist that our answer to the reference should be understood in the light of our conclusions summarised in the previous paragraph. The decision on individual cases:*

46. *The writ petition in W.P(MD)No.6889 of 2020 is filed by the daughter of the second respondent to quash the order passed by the first respondent under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act 2007. The gift deed executed by the second respondent in favour of the writ petitioner was unilaterally cancelled by the second respondent father. The settlement deed stated to have been executed by the second respondent, dated 06.03.2015 is irrevocable and it is a deed of settlement out of love and affection. The second respondent has specifically stated that he has no right to revoke the settlement deed. From the recitals, the settlement does not attract Section 126 of Tamil Nadu Property Act. It is seen that the settlor viz., the second respondent, has not put any condition. In other words, the gift deed is not subject to any condition or terms that the transferor shall provide the basic amenities and basic physical needs to the second*



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respondent. In such circumstances, this Court is of the view that there is no scope for invoking the power provided to the second respondent under Section 23 of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizens Act, 2007".

8. In view of the fact that the issue has already been settled by the Full Bench decision in W.P.(MD).Nos. 6889, 8330, 13297 of 2020, 11674 of 2015 and W.A(MD)No.800 of 2022 and C.M.P(MD).No.6797 of 2022, this petition is allowed by setting the order passed by the 1st respondent restoring the order passed by the Revenue Divisional Officer. Accordingly, the order of maintenance of Rs.10,000/- awarded by Revenue Divisional Officer Rs.10,000/- to be paid by the petitioner to the 4th respondent stands restored and the said amount shall be paid by the petitioner to the 4th respondent on or before the 7th day of every English calendar month.

9. Accordingly, writ petition is allowed No order as to costs. Consequently, the connected miscellaneous petition is closed.

Vv

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M.DHANDAPANI, J.

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