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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 30.07.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

**Rev.Appln.No.130 of 2024 in WP.No.8308 of 2024**  
**and WP.No.19499 of 2024**

**Rev.Appln.No.130 of 2024**

J.Alexander

...

Petitioner/3<sup>rd</sup> party

**vs**

1.B.George Arogiyaraj

2.The Inspector General of Registration  
No.100, Santhome High Road,  
Raja Annamalaipuram  
Chennai -28.

3.The District Registrar  
Office of the District Registrar  
Salem West, No.313, 3<sup>rd</sup> Floor,  
District Registration Office Campus  
kottai Main Road, Salem.

4.The Sub Registrar Joint-III  
Salem West  
No.314, 3<sup>rd</sup> Floor  
Collectorate Campus, Salem – 636 001.

...Respondents

**Prayer:** Writ Petition filed under Order XLVII Rule I r/w.Section 114 of CPC to set aside the order passed in WP.No.8308 of 2024 dated 01.04.2024 and allow the review petition.



For Petitioner : Mr.R.Ramesh  
For Respondents : Mr.G.Pavendhan for R1  
Mr.B.Vijay for R2 to R4.

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**WP.No.19499 of 2024**

J.Alexander

...

Petitioner

vs

1.The Inspector General of Registration  
No.100, Santhome High Road,  
Raja Annamalaipuram  
Chennai -28.

2.The District Registrar  
Office of the District Registrar  
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kottai Main Road, Salem.

3.The Sub Registrar Joint-II  
Salem West  
No.314, 3<sup>rd</sup> Floor  
Collectorate Campus, Salem – 636 001.

4.B.George Arogiyaraj

...Respondents

Writ petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus to direct the 2<sup>nd</sup> and 3<sup>rd</sup> respondents herein to remove the entry dated 01.06.2024 vide Doc.No.8/24 made in EC and consequentially not to prevent registration of any such document being submitted by the 3<sup>rd</sup> respondent herein.



**COMMON ORDER**

This review petition has been filed to review the order passed by this Court in WP.No.8308 of 2024 dated 01.04.2024 and to set aside the unilateral cancellation of the settlement deed registered on 16.02.2009. The review petition has been mainly filed on the ground that the order has been obtained on the basis of the suppression of material facts.

2. The brief facts leading to filing of the writ petition is as follows :-

One Mr.Madalaimuthu Chettiar is the original owner of the property who had four sons and three daughters and he registered a Will in the year 1974 vide Doc.No.34/1974 on the file of SRO, Joint III, Salem, bequeathing the property in favour of four sons. The said Madalaimuthu died in the year 1996. The petitioner herein and the first respondent in the review petition and the fourth respondent in WP.No.19499 of 2024 are cousins. The petitioner's father as well as the father of the first respondent in the review petition and the fourth respondent in WP.No.19499 of 2024 are brothers. The father of the private respondent executed a settlement deed in favour of the first respondent in the review petition/fourth respondent in WP.No.19499 of 2024 on 30.04.2007 in Doc.No.876 of 2007 and due to dispute arose between the father and the son, the father had cancelled the settlement deed



vide Doc.No.280/2009 dated 16.02.2009. The private respondent has filed a suit in OS.No.998 of 2013 on the file of the I Additional District Munsif, Salem for the relief of declaration to declare the cancellation deed No.280/2009 dated 16.02.2009 executed by the defendant therein as null and void. The said suit was dismissed for default on 02.01.2018. It also appears that the suit in OS.No.865 of 2010 was filed by the said private respondent on the file of the Principal District Munsif, Salem for the relief of injunction based upon the right of settlement deed executed by his father vide Doc.No.876/2007 and after trial the same was dismissed on 19.12.2011. Yet another suit has been filed by the father of the private respondent in OS.No.781 of 2006 for the relief of permanent injunction as against the petitioner herein and the same was dismissed on 09.04.2008 and the matter has reached finality.

3. The specific findings has been recorded in the suit to the effect that through the settlement deed the writ petitioner had not derived right to property. Suppressing of above facts, the writ petition has been filed before this Court, as if the cancellation has been known to the writ petitioner, only after the death of his father. This Court taking into the settled law with



regard to unilateral cancellation and allowed the writ petition. However, the review petitioner has not made as a party, hence prays for recalling the order.

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4. In the Counter affidavit filed in the writ petition, according to them the petitioner has suppressed the matter and the mother of the writ petitioner only filed the suit against the others for permanent injunction and she has not filed any suit for declaration in OS.No.308 of 1987. According to him, he came to know about the cancellation deed only after the death of his father, hence, filed the present writ petition.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the official respondents and the learned counsel for the private respondent and perused the materials available on record.

6. On perusal of the documents produced before this Court the suppression is at writ large, immediately after the cancellation of settlement deed executed by the father of the 4<sup>th</sup> respondent in the year 2009. He has filed a suit in OS.No.998 of 2013 for declaration to declare the cancellation deed No.280 of 2009 dated 16.02.2009 executed by his father on the file of



the Joint Sub Registrar, Salem as null and void. The said suit was dismissed on 02.01.2018 for non prosecution. The aforesaid facts has been totally suppressed before this Court.

7. The suits in OS.No.865 of 2010 has been filed by the 4<sup>th</sup> respondent in writ petition for permanent injunction against the review petitioner and another person claiming right on the basis of the settlement deed executed on 30.04.2007 by his father, the said suit has been dismissed after full trial. Thereafter, again in OS.No.781 of 2006 also the father of the 4<sup>th</sup> respondent has filed the suit for permanent injunction against the review petitioner in respect of the same suit property and the same was dismissed on 09.04.2008. As against the said judgment and decree, appeal in AS.No.76 of 2008 has been filed before the Additional Sub Judge, Salem, the same was dismissed on 25.09.2008. Subsequently, the father of the 4<sup>th</sup> respondent has also filed CRP.(NPD).No.2236 of 2016 to condone the delay in filing the appeal, the same was dismissed by this Court by an order dated 08.08.2016.

8. When the rights of the parties particularly with regard to the so called settlement deed was already subject matter of the various suits and



suppressing the earlier suits filed by the first respondent in review petition/fourth respondent in writ petition, that too for cancellation of settlement deed which has been dismissed for default in the year 2008 itself.

Now, the writ petition has been filed as if he has come to the notice of the cancellation happened in the year 2009, only recently. The very fact, that the suit filed by him is dismissed long back has been suppressed.

9. In such view of the matter, the order passed by this Court in WP.No.8308 of 2024 dated 01.04.2024 has to be necessarily recalled and the writ petition is dismissed. Since, the rights of the parties are already subject matter of the various suits. If any, entries is made pursuant to the directions of this Court in WP.No.8308 of 2024 dated 01.04.2024 in the encumbrance certificate by the concerned Sub Registrar, the same shall be removed from the entries. If any suits are pending, the parties shall establish their rights in the pending suits.

10. In the result,

(i) the review petition is allowed and the order made in WP.No.8308 of 2024 dated 01.04.2024 is hereby recalled and writ petition is dismissed. No costs. and



(ii)in view of the order passed in review petition, the writ

petition in WP.No.19499 of 2024 is disposed of. No costs.

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**30.07.2024**

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

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**N.SATHISH KUMAR, J.**

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