



W.A.No.2200 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2024

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CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

Writ Appeal No.2200 of 2022

K.Raman

... Appellant

Vs.

1. Inspector General of Registration,
No.11, Santhome High Court,
Chennai – 600 028.

2. The Sub-Registrar,
Office of the Sub-Registrar,
Vaniyambadi – 635 751.

3. K.Selvanathan
4. S.Mageshwari

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 29.06.2022 made in W.P.No.16229 of 2022.

For Appellant
For R1 & R2

For R3 & R4

: Mr.B.Ram Prasath
: Mr.U.Baranidharan
Additional Government Pleader
: Mr.T.Sundaravadanam



W.A.No.2200 of 2022

J U D G M E N T

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(Judgment of the Court delivered by S.M.SUBRAMANIAM,J.)

The Writ Appeal has been instituted challenging the order dated 29.06.2022 made in W.P.No.16229 of 2022.

2. The writ petitioner is the appellant before us. The Writ Petition was instituted to quash the unilateral cancellation of Settlement Deed in Document No.1730 of 2001 dated 05.07.2001. The learned Single Judge dismissed the writ petition mainly on the ground that the writ petitioner had filed a suit for partition, which had ended in dismissal and an appeal filed against the said order is also ended in dismissal. Thus, the relief for cancellation of Settlement cannot be granted. Further, the Settler had died. Therefore, the petitioner has to seek his remedy before the appropriate forum.

3. Civil rights cannot be determined in the writ proceedings under Article 226 of the Constitution of India. Rights of Civil nature are to be adjudicated with reference to the documents in original and evidence by



W.A.No.2200 of 2022

approaching the Civil Court of law. However, the Writ Court can examine whether the Sub-Registrar is empowered to register the document under the provisions of the Registration Act or not. Deciding the issues relating to the provisions of the Registration Act and the powers of the Sub-Registrar are un-connected with the Civil rights of the parties, which all are to be established in the manner known to law.

4. In the present case, one Mr.Kuzanthai Gowndar, father of the appellant gifted a dry land measuring 69 cents comprised at Vallipattu Village and Settlement Deed No.2160 of 2000. The appellant states that he has constructed two flooring R.C.Molded residential house on 21.09.2000. The appellant left out the said residential house, on account of his job and away from the village for about 2 years. During the relevant point of time, the respondents 3 and 4 allegedly coerced with his father to canceled the Settlement Deed and accordingly, the Settlement Deed executed in favour of the appellant on 14.07.2000 was unilaterly canceled by his father by registering the cancellation of Settlement Deed on 21.09.2000. Thus, the appellant instituted the writ petition challenging the cancellation deed.



W.A.No.2200 of 2022

WEB COPY

5. Since the Writ Court dismissed the writ petition, the present writ appeal came to be instituted.

6. Mr.B.Ram Prasath, learned Counsel for the appellant would submit that unilateral cancellation of Settlement Deed is impermissible under the provisions of the Registration Act and the issues in this regard are settled by the Full Bench of this Court in the case of ***Sasikala Vs. The Revenue Divisional Officer*** in ***W.P.(MD)Nos.6889 of 2020 etc.***, dated 02.09.2022 reported in ***2022 (7) MLJ (1)***.

7. Mr.T.Sundaravadanam, learned Counsel for the respondent 3 and 4 would oppose the said contention by stating that the Civil Suit in O.S.No.3 of 2018 is pending on the file of District Munsif Court, Vaniyambadi, Vellore, which has not be stated by the writ appellant. The suit for partition instituted by the 3rd respondent was dismissed and the appeal suit was also dismissed. However, we are not in the process of determining the Civil rights of the parties, but examining the powers of the Sub-Registrar to



W.A.No.2200 of 2022

entertain the cancellation of Settlement Deed, which is presented unilaterally by the Executant of the Settlement Deed.

8. The issues relating to the unilateral cancellation of Settlement Deeds are no more *res integra*. The full bench of this Court in the case of ***Latif Estate Line India Limited reported in AIR 2011 (Mad) 66*** Another full bench, in the case of ***Sasikala Vs.The Revenue Divisional Officer*** reported in ***2022 7 MLJ 1*** also reiterated the said principles in paragraph nos.44 and 45 are as under:

“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. Vs. Government 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



W.A.No.2200 of 2022

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 SCC 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.

(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



W.A.No.2200 of 2022

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.

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



W.A.No.2200 of 2022

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.”

9. Learned Single Judge has gone into the merits of the Judgment and Decree passed and not considered the ratio laid down by two different full Benches of this Court cited *supra*. Thus, we are inclined to interfere with the orders impugned. Consequently, the order dated 29.06.2022 passed in W.P.No.16229 of 2022 is set aside and the Writ Appeal stands allowed. The parties are at liberty to workout their Civil Rights in the manner known to law. No costs.

[S.M.S.J.] [K.R.S.J.]
19.02.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To

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W.A.No.2200 of 2022

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