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W.P.No.813 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.813 of 2017

G.Hanumantha Rao

...Petitioner

-Vs-

1.The Sub Registrar,
Salaiyur Sub Registrar Office,
Salaiyur,
Chennai – 73.

2.M.Gopal Naidu (Deceased)

3.G.Devendiran

4.G.Sreedevi

5.G.Atham Rao

(R3 to R5 are substituted as LR's of R2 as per order dated 29.11.2023 in
W.M.P.No.4342/2023 in W.P.No.813/2017 by PVJ)

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Declaration that the registration of the deed of cancellation of settlement dated 30.03.2012 executed by the second respondent, registered as Doc.No.2799/2012 on the file of the first respondent is null and void, and not binding upon the petitioner's right conferred under the settlement deed dated 30.01.2009 registered as Doc.No.450/2009 on the file of the first respondent.



W.P.No.813 of 2017

WEB COPY

For Petitioner : Mr.M.Ganesh
for Mr.N.Manokaran

For Respondent 1 : Mr.P.Anandakumar,
Government Advocate

For Respondent 2 : Deceased

For Respondents 3 to 5 : No Appearance

ORDER

This writ petition is filed for issuance of a Writ of Declaration to declare that the registration of the deed of cancellation of settlement dated 30.03.2012 executed by the second respondent, registered as Doc.No.2799/2012 on the file of the first respondent is null and void, and not binding upon the petitioner's right conferred under the settlement deed dated 30.01.2009 registered as Doc.No.450/2009 on the file of the first respondent.

2. Learned counsel for the petitioner submitted that the petitioner is the son of second respondent (deceased), who has settled the subject property in favour of the petitioner under settlement deed dated 30.01.2009 vide Doc.No.450/2009. This being so, the second respondent has unilaterally cancelled the Settlement Deed on 30.03.2012 and registered the same as



W.P.No.813 of 2017

Doc.No.2799/2012. Aggrieved over the same, the petitioner has come forward with the present writ petition.

3. Learned Government Advocate appearing for the first respondent has 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.***

4. Learned Government Advocate appearing for the first respondent has also 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



WEB COPY



W.P.No.813 of 2017

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 present 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 Special Government Pleader, the Full Bench has repeatedly held that the unilateral cancellation is void ab initio.”

5. Heard the learned counsel on either side and perused the materials available on record.

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).Nos.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 made in W.P.No.9007 of 2024 dated***



W.P.No.813 of 2017

03.04.2024, this Court is of the considered view that the unilateral cancellation of the settlement deed dated 30.03.2012 is *void ab initio* and the same is set aside.

7. In the result, the writ petition stands allowed. No costs.

21.06.2024

vm

Index : Yes/No

Speaking/Non Speaking order

Neutral Citation: Yes/No

To

The Sub Registrar,
Salaiyur Sub Registrar Office,
Salaiyur,
Chennai – 73.



WEB COPY



W.P.No.813 of 2017

J.SATHYA NARAYANA PRASAD, J.

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W.P.No.813 of 2017



WEB COPY



W.P.No.813 of 2017

21.06.2024