



WEB COPY



W.P.No.28943 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2024

CORAM

THE HONOURABLE MR. JUSTICE S. SOUNTHAR

W.P No.28943 of 2024

P.Premavathy
...Petitioner

Vs.

1. The Inspector General of Registration
Office of the Inspector General of Registration,
Santhome, Chennai - 600 004.
 2. The District Registrar,
District Registrar Office,
1st floor, combined Registration Complex,
No.182, Bharathi Salai, Royapettah,
Chennai 600 014.
 3. The Sub Registrar,
Office of the Sub Registrar,
Virugambakkam, Chennai - 600 092.
 4. E.Revathy
 5. R.Santhanalakshmi
 6. R.Vijaya
- ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling upon the records relating to refusal of resgistration of Cancellation of Settlement deed made in vide RFL/Virugambakkam/41/2023 dated 10.10.2023 quash the same and consequently direct the third respondent to register the Cancellation of



W.P.No.28943 of 2024

Settlement Deed Doc.No.2344 of 2015 as presented by the petitioner herein.

WEB COPY

For Petitioner : Mr.Dhanaram Ramachandran
For R1 to R3 : Mr.M.Shahjahan
Special Government Pleader

ORDER

This writ petition is filed challenging the refusal check slip issued by the third respondent refusing to register the cancellation of Settlement deed on the ground that unilateral cancellation is not permissible.

2. The case of the petitioner is that she executed a settlement deed dated 06.04.2015 in favour of three daughters namely (i) E.Revathy, (ii)R.Santhanalakshmi and (iii)Vijaya, who are the respondents 4 to 6 herein. Thereafter, the relationship between the petitioner and the settlees got strained and hence, the petitioner executed a cancellation of settlement deed and presented it for registration on 10.10.2023 before the third respondent. The third respondent refused to entertain it and passed the impugned refusal check slip on the ground that unilateral cancellation is not permissible. Aggrieved by the same, the petitioner has come to this Court by way of this writ petition.

3. The learned counsel for the petitioner taking this Court to the recitals



found in the document, submitted that though the document dated 06.04.2015 was described as settlement deed, it is really a Will and the recitals in the document clearly indicate that transfer will take effect only after the lifetime of the petitioner and her husband. Therefore, the third respondent committed serious error in refusing to register the document styled as gift cancellation deed, which is really a document cancelling earlier will.

4. A perusal of the settlement deed dated 06.04.2015 would indicate that the petitioner settled the subject property in favour of their daughters Revathy and two others. The recitals found in the settlement deed clearly establish that the transfer of interest takes place *in praesenti*. It is also recited that from the date of settlement, the settlees can enjoy the property with right of alienation. The settlees were also permitted to effect mutation of revenue records in their names by their own expenses. These recitals found in the earlier part of the settlement deed executed by the petitioner clearly establish that settlor settled the property absolutely in favour of her daughters under the documents. The last clause in the settlement deed goes against the earlier clause by stating that the settlement deed would come into effect from the date of the death of the settlor. It is settled law in case of non-testamentary instruments, if there is a conflict between the earlier clause and the later clause. The earlier clause will



prevail over the later clause. In this regard, it would be appropriate to refer to the decision of the Apex Court in ***Kaivelikkal Ambunhi (dead) by LRs. and others vs. H.Ganesh Bhandary*** reported in (1995) 5 SCC 444 the relevant observation reads as follows:-

" 3. The rules of interpretation of the 'Will' are different from the rules which govern the interpretation of other documents say, for example, a sale deed or a gift deed or a mortgage deed or, for that matter, any other instrument by which interest in immovable property is created. While in these documents if there is any inconsistency between the earlier or the subsequent part or specific clauses inter se contained therein, the earlier part will prevail over the latter as against the rule of interpretation applicable to a Will under which the subsequent part, clause or portion prevails over the earlier part on the principle that in the matter or 'Will', the testator can always change his mind and create another interest in place of the bequest already made in the earlier part or on an earlier occasion."

(ii) ***Mauleshwar Mani & others versus Jagdish Prasad & others*** reported in 2002 (1) CTC 443 the relevant observation reads as follows:-

"10. In Ramkishorelal and another vs. Kamalanarayan - 1963 Suppl. (2) SCR 417, it was held that in a disposition of properties, if there is a clear conflict between what is said in one part of the document and in another where in an earlier part of the document some property is given absolutely to one person but



WEB COPY

later on, other directions about the same property are given which conflict with and away from the absolute title given in the earlier portion, in such a conflict the earlier disposition of absolute title should prevail and the later directions of disposition should be disregarded. In Radha Sundar Dutta vs. Hohd. Jahadur Rahim & others (supra), it was held where there is conflict between the earlier clause and the later clauses and it is not possible to give effect to all of them, then the rule of construction is well established that it is the earlier clause that must override the later clauses and not vice versa. In Rameshwar Bakhsh Singh and others vs. Balraj Kumar and others - AIR 1935 Privy Council 187, it was laid down that where an absolute estate is created by Will in favour of devisee, the clauses in the Will which are repugnant to such absolute estate cannot cut down the estate; but they must be held to be invalid."

5. Further, after settling the property in favour of the daughters absolutely under earlier clause of the settlement deed, it is not open to the settlor to introduce a later clause which will go against the interest already created under the earlier clause. The last clause in the settlement deed being inconsistent with the earlier clause which created absolute gift in favour of settlees is void to the extent it is inconsistent with the earlier gift. In view of the same, the settlement deed dated 06.04.2015 cannot be treated as a Will and the recitals found thereon would indicate the same shall be treated as a settlement deed. Therefore, the submission made by the learned counsel for



W.P.No.28943 of 2024

the petitioner is not accepted by this Court. It is also settled law that unilateral cancellation of gift deed is not permissible in law.

6. In view of the same, I do not find any error in the order passed by the third respondent refusing registration on the ground that the unilateral cancellation of the settlement deed is not permissible under law. Accordingly, this writ petition is dismissed. No costs.

03.10.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
av

To

1. The Inspector General of Registration
Office of the Inspector General of Registration,
Santhome, Chennai - 600 004.
2. The District Registrar,
District Registrar Office,
1st floor, combined Registration Complex,
No.182, Bharathi Salai, Royapettah,
Chennai 600 014.
3. The Sub Registrar,
Office of the Sub Registrar,
Virugambakkam, Chennai - 600 092.



WEB COPY



W.P.No.28943 of 2024

S. SOUNTHAR, J.

av

W.P No.28943 of 2024

03.10.2024