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WP.No.34962 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.34962 of 2022
W.M.P.Nos.34391 to 34393 of 2022

S.Jagadeeswaran

.. Petitioner

Versus

1.The Inspector General of Registration
No.100, Santhome High Road
Chennai – 600 004

2.The Sub Registrar
Office of the Sub Registrar
Guduvancheri
Chingleput District

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the registered unilateral cancellation of the Settlement deed executed by the petitioner's father namely N.Subramanian (Late) dated 23.04.2012, registered as Document No.5360/2012, on the file of the 2nd respondent and quash the same as illegal in conformity with the Full Bench of this Honble Court Judgment dated 02.09.2022 passed in W.P.(MD)No.11674 of 2015, consequently direct the 2nd respondent to remove the entry of the aforesaid illegal registration of unilateral cancellation of settlement deed.

For Petitioner : Mr.A.C.Manibharathi

For Respondents : Mr.B.Vijay
Additional Government Pleader



WP.No.34962 of 2022

ORDER

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2. This writ petition is filed challenging the registration of the cancellation of settlement deed dated 23.04.2012 registered before the second respondent quash the same and direct the second respondent to remove the entry of the registration of unilateral cancellation of settlement deed.

3. It is the case of the writ petitioner that his father had executed a settlement deed in his favor on 04.08.2006 by virtue of Doc.No.8953 of 2006 on the file of second respondent. When the matter stood thus, settlor has registered the impugned cancellation of settlement deed dated 23.04.2012 unilaterally. According to the writ petitioner, such unilateral cancellation is not valid in the eye of law. Challenging the said registration of unilateral cancellation of the settlement deed, this writ petition is filed.

4. Heard both sides and perused the materials placed on record.



WP.No.34962 of 2022

5. This Court is of the view that the very act of the second respondent receiving the document and registering the unilateral cancellation is ex facie bad in law in view of the law declared by the Full Bench of this Court in the case of *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.

6. Though the counter has not been filed, the learned Additional Government Pleader 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*.

7. 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 said circular was issued to all by the Deputy Inspector Generals of Registration, District Registrars and Sub



WP.No.34962 of 2022

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 presenti* 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 Additional Government Pleader, the Full Bench has repeatedly held that the unilateral cancellation is void ab initio.

8. Such view of the matter, when the registration of the document itself is held to be void, allowing such document in entry namely the encumbrance will create further confusion in respect of the title of the petitioner. Such view of the matter, this Court is of the view that the unilateral cancellation of the settlement deed dated 23.04.2012 is void ab initio and the same is set aside.

9. Accordingly, this writ petition stands allowed and the second respondent is directed to remove the connected entries in the encumbrance indicating that the cancellation deed registered on the file is void ab initio. No costs. Consequently, connected miscellaneous petitions are closed.

16.04.2024

dhk
Index

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:Yes/No



WEB COPY



WP.No.34962 of 2022

To,

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N. SATHISH KUMAR, J.

dhk

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