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S.A.(MD).No.25 of 2024

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.02.2024**

CORAM:

THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

S.A.(MD).No.25 of 2024
and
C.M.P.(MD)No.683 of 2024

Kamuthai

... Appellant

/Vs./

Deepan Subakar

...Respondent

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code against the judgment of the Learned Subordinate Judge, Palani (Kodaikanal Camp Court), dated 23.01.2018 made in A.S.No.79 of 2017, reversing the judgment and decree, dated 25.10.2017 made in O.S.No.88 of 2012 on the file of District Munsif Court – cum – Judicial Magistrate, Kodaikanal.

For Appellant : Mr.V.Janakiramulu
For Respondent : Mr.T.Cibi Chakraborty

JUDGMENT

This second appeal is preferred by the 1st defendant against the judgment and decree passed by the First Appellate Court reversing the judgment of the Trial Court.



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2. The 1st defendant is the appellant herein and the plaintiff is the respondents herein. For the sake of convenience, the parties shall be referred as Plaintiff and Defendant as per the ranking in the suit.

3. The plaintiff had filed a suit for declaration to declare the unilateral cancellation of settlement deed as null and void. The suit was dismissed against which the plaintiff had preferred an appeal. In the appeal, the First Appellate Court has considered the case and allowed the appeal. Against which the first defendant has preferred this second appeal.

4. The plaintiff / respondent is the son of the defendant / appellant herein. The defendant had executed a Settlement Deed, dated 28.09.2011 and same is registered as Document No.1921 of 2011 before the Office of Sub Registrar, Kodaikanal. Subsequently, the defendant had cancelled the same through Cancellation Deed, dated 08.05.2012 registered as Document No.922 of 2012 before the Office of Sub Registrar, Kodaikanal.

5. The contention of the plaintiff is that once the settlement deed is executed, the same cannot be unilateral cancelled and the issue is settled by the



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Hon'ble Full Bench of this Court in the case of ***Sasikala and others Vs. Revenue Divisional Officer cum Sub Collector and others*** reported in (2022) 7 MLJ 1.

The relevant portion of the order of the Hon'ble Full Bench of this Court is extracted hereunder:

“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 Another v. Government of Andhra Pradesh and Others (supra), and the Full Bench of this Court in Latif Estate Line India Ltd.,v. Hadeeja Ammal and Others (supra) and inclined to follow the judgment of three member Bench of Hon'ble Supreme Court in Veena Singh (Dead) through Lrs v. District Registrar/Additional Collector and Another (supra) and the judgment of two member Bench of Hon'ble Supreme Court in Asset Reconstruction Company (India) Limited v. J.P. Velayutham and Others (supra) 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.



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(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 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.”

6. Therefore, following the aforesaid Full Bench Judgment, this Court is of the considered opinion that the settlement deed once executed the same cannot be unilaterally cancelled. The First Appellate Court judgment is in consonance with the judgment of the Full Bench Judgment. Hence, there is no ground to interfere



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in the judgment. Hence, the second appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

23.02.2024

Index : Yes / No

NCC : Yes / No

Tmg

TO:

- 1.Subordinate Judge, Palani (Kodaikanal Camp Court).
2. District Munsif Court –cum
– Judicial Magistrate, Kodaikanal.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

Tmg

Judgment made in
S.A.(MD)No.25 of 2024

Dated:
23.02.2024