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W.P.(MD)No.4543 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2024

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.4543 of 2018

K.Murugeshwari

... Petitioner

Vs.

1.The Inspector General of Registration,
Santhome, Chennai.

2.The District Registrar,
Madurai, Madurai District.

3.The Joint Sub Registrar No.1,
Madurai South, Madurai District.

4.P.Vijayalakshmi
5.V.Karthick

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents No.1 to 3 to cancel the registration of the cancellation deed in Doc.No. 5138 of 2014, dated 28.07.2014 thereby cancelling the Gift deed executed in Document No. 8632/2011, dated 12.09.2011 in favour of the petitioner's husband Late.Kasimayan and also the registration of the subsequent will executed by the Testator namely K.Kumarayee dated 28.07.2014 in Doc.No.244 of 2014 and the registration of the subsequent Mortgage deed dated 05.01.2017 in Doc.No. 58 of 2017 executed by the 4th respondent in favour of the 5th respondent on the file of the 3rd respondent.



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For Petitioner : Mr.M.Vivek Kumar
For R1 to R3 : Mr.P.Subbaraj
Special Government Pleader

ORDER

In this writ petition, a challenge has been made to the unilateral cancellation of the gift deed executed in the name of the petitioner's husband by his grandmother.

2.The contention of the petitioner is that the petitioner's husband was brought up by his grandmother and hence, the grandmother of the petitioner's husband had executed a gift deed in favour of the petitioner's husband in the year 2011. Now the petitioner in the year 2022, after the death of her husband, came to know that the grandmother of the petitioner's husband had unilaterally cancelled the gift deed executed in favour of her husband even without the knowledge of the petitioner and her husband.

3.At the outset, this Court is of the view that unilateral cancellation of the settlement by executing a cancellation deed is not permissible under law and it is void ab initio. Further, the Full Bench of this court in a decision 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 has held as follows :



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?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 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 SC 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 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



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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.?”

4.In view of the above settled provision of law, unilateral cancellation of the settlement deed is not valid in the eye of law and is liable to be set aside. However, this will not prevent the parties to establish their stand over the properties in a proper civil suit.

5.Following the above decision, this Writ Petition is allowed and the unilateral cancellation of the gift deed bearing Document No.8632/2011 is set aside. No costs.

27.08.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
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To

- 1.The Inspector General of Registration,
Santhome, Chennai.
- 2.The District Registrar,
Madurai, Madurai District.
- 3.The Joint Sub Registrar No.1,
Madurai South, Madurai District.



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N.SATHISH KUMAR, J.

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