



W.P.(MD)No.5840 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.11.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

W.P.(MD)No.5840 of 2024

and

W.M.P.(MD)No.5514 of 2024

Palaniselvan

... Petitioners

/Vs./

1. The District Registrar
Madurai District,
Madurai.
2. The Sub Registrar
Sindhupatti,
Madurai District.
3. The Sub-Registrar
Elumalai,
Madurai District.
4. Elangovan
5. Thambidurai @ Rajendra Kumar
6. Kalaivanan
7. Bhagyalakshmi
8. Selvaraj
9. Panner Selvam S. P. (Died)
10. Marudhu Pandi Kannan .R.
11. Jeya Jothi,
12. Aruna Devi
13. Vijayakumari



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14. Parthiban
15. Isai Nila
16. Jeya Surya (Minor),
- 17 Vetrivel (Minor),
(R16 and R17 rep. by their Mother R15)
(R11 to R17 are suo-motu impleaded
vide Court order dated 12.04.2024) .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for entire records relating to the registration of cancellation of settlement deed vide Doc. 1411/2011 dated 29.06.2011 on the file of second respondent and quash the same as illegal.

For Petitioner : Mr.A.Robinson

For Respondents : Mr.S.P.Maharajan

Special Government Pleader for R1 to 3

: Mr.R.Anandharaj

for Mr.S.Vishnuvardhan for R 4 to 8

: Mr.J.Bharathan for R10

ORDER

This Writ Petition has been filed challenging the unilateral cancellation of settlement deed dated 29.06.2011 vide Document No. 1411/2011.



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

3. The property comprised in Survey No.158/2A measuring to an extent of 1.74 Acres, S.No.158/2B measuring to an extent of 1.72 Acres, S.No.159/2 measuring to an extent of 8.39 Acres, S.No.13 measuring to an extent of 9.50 Acres, S.No.17/1 measuring to an extent of 4.22 Acres was purchased by one S.S.Rajendran, who is the father of the respondents 4 to 8, vide document No.4837/1961 dated 18.08.1961. That apart, their father/S.S.Rajendran also owned property comprised in S.No.16/1 situated at Sedapatti Village, Peraiyur Taluk, Madurai District, by the will executed by his mother. Thereafter, their father had executed a settlement deed dated 29.11.1968 in favour of the respondents 4 to 8 in respect of the property comprised in Survey No.158/2A measuring to an extent of 1.74 Acres, S.No.158/2B measuring to an extent of 1.72 Acres, S.No.159/2 measuring to an extent of 6.36 Acres out of 8.39 Acres, S.No.13 was sub-divided into 13/1, 13/2, 13/3 in which the lands in S.No.13/2 measuring to an extent of 1.30 Acres and lands in S.No.13/3



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measuring to an extent of 1.04 Acres out of 9.50 Acres, S.No.17/1 was sub-divided into various portions in which S.No.17/1A measuring to an extent of 2.13 Acres out of 4.22 Acres and a house in S.No.16/1, situated at Sedapatti Village, Madurai District, vide document No.4318/1968. From the date of settlement, the respondents 4 to 8 are in possession and enjoyment of the subject property and the settlement deed was acted upon. Thereafter, the petitioner's mother had purchased the property comprised in S.No.13/2 measuring to an extent of 1.28 Acres situated at Sedapatti Village, Peraiyur Taluk, Madurai District, by the registered sale deed dated 09.06.1987 registered vide document No.468/1990 from one of the settlees. After her demise, the petitioner become the absolute owner of the said property and he is in possession and enjoyment of the same. While being so, in the year 2011, i.e., on 29.06.2011, the settlees' (viz., respondents 4 to 8) father, namely, settlor executed unilateral cancellation settlement deed dated 29.06.2011 registered vide document No.1411/2011, thereby unilaterally cancelled the settlement deed, dated 29.11.1968. Thereafter, the settlor had executed sale deed in respect of some portion of the property in favour of the respondents 9 and 10 by separate sale deed dated 02.08.2013 registered vide Document



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Nos.1500/2013 and 1501/2013. In the meanwhile, the settlees filed a suit in O.S.No.552 of 2014 on the file of the District Munsif, Peraiyur, challenging the unilateral cancellation deed. However, the said suit was dismissed for default. However, the settlees are also in possession and enjoyment of some of the properties, which were settled in their favour by their father by the settlement deed.

4. The issue of unilateral cancellation has been dealt with by the Hon'ble Full Bench of this Court in the case of **Sasikala V. Revenue Divisional Officer** reported in **2022 (4) L.W 481**, wherein in paragraph No.44, is held as follows:-

“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



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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.



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(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.”

5. In view of the above, the unilateral cancellation of any 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 and such unilateral cancellation of sale deed or deed of conveyance cannot be accepted for registration. Therefore, the second respondent ought not to have registered the unilateral cancellation of settlement deed dated 29.06.2011.

6. In view of the above, the cancellation of settlement deed dated 29.06.2011 registered vide Document No.1411/2011 on the file of second respondent is hereby declared as null and void. It is needless to state that



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in pursuant to the unilateral cancellation of settlement deed, execution of any deed of conveyance in respect of subject property is *non-est* in the eye of law and does not operate to execute, assign, limit or extinguish any right, title or interest in respect of the subject property

7. With the above direction, this Writ Petition is allowed. The concerned Sub Registrar is directed to record this order in the book of records. No costs. Consequently, connected Miscellaneous Petition is closed.

26.11.2024

Internet : Yes/No
NCC : Yes / No
Index : Yes/No
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TO:-

1. The District Registrar
Madurai District,
Madurai.
2. The Sub Registrar
Sindhupatti,
Madurai District.
3. The Sub-Registrar
Elumalai,
Madurai District.



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G.K.ILANTHIRAIYAN, J.

LS

Order made in
W.P.(MD)No.5840 of 2024

Dated:
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