



W.P(MD)No.8889 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.8889 of 2023

and

W.M.P.(MD)Nos.8105 & 8106 of 2023

A.Parvathy

... Petitioner

Vs.

1.The Sub Registrar,
Kayathar Sub Registrar Office,
Tuticorin District.

2.J.Gurusamy
3.Alagammal
4.K.Jeyakumar
5.G.Hari Baskar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records from the office of the 1st respondent with respect to the impugned registration of unilateral cancellation deed of settlement deed in Doc.No.1104 of 1992, dated 02.11.1992 and quash the same and consequently, to direct the 1st respondent to remove the entry of encumbrance regarding the said document in Book No.1 of his office.

For Petitioner : Mr.H.Arumugam



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For R1 : Mr.P.Subbaraj,
Special Government Pleader
For R2 & R3 : Mr.S.Kadarkarai

ORDER

According to the petitioner, her father executed a gift deed dated 03.08.1992 in Doc.No.821/1992 in her favour in respect of S.No.77/7A to an extent of 4.29 acres situated at Villicherry Village, Kayathar Taluk, Tuticorin District. The said document has been cancelled unilaterally on 02.11.1992. However, the factum of cancellation has not been informed to the petitioner. She came to know about the cancellation only in the year 2023, particularly, when the respondents 2 to 5 made an attempt to enter into the property in question, by creating forged documents. Challenging the said unilateral cancellation, the petitioner has filed this Writ Petition.

2.The learned counsel appearing for the petitioner would submit that as per the decision rendered by the Full Bench of this Court 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, unilateral cancellation is not valid in the eye of law. Hence, the same is liable to be set aside.



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3.The learned counsel appearing for the respondents 2 and 3 would submit that this Writ Petition is filed after 30 years from such cancellation. Though the cancellation is made in the year 1992, it has not been challenged immediately. The petitioner married long back and settled in her husband's place. Further, the property in question was allotted to the petitioner, the 2nd respondent and one Kandasamy, who is the husband and father of the respondents 3 and 4. Thereafter, mediation was taken place in the respondents' place, where the 2nd respondent has perfected the title.

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

5.Of course, as per law settled by this Court 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, the unilateral cancellation of settlement deed is not permissible. Be that as it may, the petitioner has approached this Court after 30 years from such cancellation. Merely because such unilateral cancellation is not valid in the eye of law, that will not give absolute title to the petitioner. The petitioner has to file a necessary suit to



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establish her right. Further, no revenue records have been placed before this Court to show that she has exercised the right on the basis of the settlement deed, whereas it is the specific contention of the learned counsel for the respondents 2 and 3 that the 2nd respondent is in possession continuously and perfected the title.

6.In such view of the matter, all these things have to be established in the manner known to law before the civil Court. Merely because the unilateral cancellation is not valid in the eye of law, that does not dispense with the proof of other aspects. It is for the petitioner to establish the same by filing a suit in a competent civil Court.

7.With the above observation, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

17.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Yuva



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To
The Sub Registrar,
Kayathar Sub Registrar Office,
Tuticorin District.



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N.SATHISH KUMAR, J.

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