



W.P (MD).No.14701 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2024

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

W.P (MD).No.14701 of 2024

and

W.M.P(MD)No.12899 of 2024

Muthummal Janaki

... Petitioner

Vs.

1.The State of Tamil Nadu Rep. by its,
The District Registrar (Admin),
Thoothukudi District.

2.The Sub-Registrar,
Azhwarthirunagari,
Thoothukudi District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned Refusal slip No.RFL/Azwarthirunagari/66/2023 dated 19.10.2023, issued by the second respondent in the petitioner's Application No.TP/162702441/2023 dated 18.10.2023 and quash the same is illegal and consequently direct the second respondent to receive and register the petitioner's Application No.TP/162702441/2023 dated 18.10.2023 and further to issue Registered Document Number and thereafter to release the document after registration.



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For Petitioner : Mr.P.M.Vishnu Varthanan
For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader

ORDER

This writ petition has been filed challenging the refusal check slip issued by the second respondent dated 18.10.2023 thereby refused to register the agreement of sale on the ground that the appeal suit is pending in respect of the subject property.

2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. The property comprised in Old Door No.55/New Door No.30 in Old Ward No.3/New Ward No.13 in Old T.S.No.892/1 with corresponding New T.S.No.964/61 measuring an extent of 2046.875 sq.ft in Azhwarthirunagari Village, Eral Taluk, Thoothukudi District owned by the petitioner's vendor Nithayanandhan. He derive title by way of settlement deed executed by his mother Seevalamangai by the registered settlement deed, dated 10.09.2013 vide document No.883/2013. Subsequently, her mother unilaterally cancelled the settlement deed and registered the cancellation deed dated 18.09.2013 vide document No.943/2013. Therefore, the petitioner's vendor



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filed a suit in O.S.No.143 of 2018 on the file of the District Munsif, Sriyaikundam, Tuticorin District for declaration declaring that the unilateral cancellation deed is null and void. The said suit was decreed by the judgment and decree dated 07.11.2019. Thereafter, his vendor's mother died on 18.09.2020. Aggrieved by the said judgment and decree by the trial Court, other legal heirs filed an appeal and the appeal suit is pending.

4. In the meanwhile, the petitioner intended to purchase the said property and after payment of substantial amount towards sale consideration entered into an agreement for sale and presented for registration on 19.10.2023, which was rejected on the ground that the appeal suit is pending.

5. It is seen that while the petitioner's vendor's mother was alive, the unilateral cancellation of settlement deed was declared as null and void by the judgment and decree dated 07.11.2019. Now, the appeal suit is pending without any interim order. That apart, the Hon'ble Full Bench of this Court also held that the unilateral cancellation of settlement deed cannot be valid and it is void and non-est. It is held in the case of ***Sasikala vs. The Revenue Divisional Officer and others in W.P.(MD)No.6889 of 2020 etc., batch, dated 02.09.2022*** and the relevant portion of the order is extracted hereunder:-



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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 80/85 <https://www.mhc.tn.gov.in/judis> W.P.(MD).Nos.6889,8330,13297 of 2020,11674 of 2015 and W.A(MD)No.800 of 2022 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



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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 81/85 <https://www.mhc.tn.gov.in/judis> W.P.(MD).Nos.6889,8330,13297 of 2020,11674 of 2015 and W.A(MD)No.800 of 2022 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. In view of the above, apart from the decree and judgment passed in O.S.No.143 of 2018 on the file of the District Munsif Court, Srivaikundam, the unilateral cancellation of settlement deed is fully void and *non est* and does not appropriate in extending any right title or interest in the property.

7. The learned counsel for the petitioner would submit that now the entire sale consideration has been paid to his vendor and he is ready to execute the sale deed and present for registration.



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8. In view of the above, the impugned order dated 18.10.2023, passed by the second respondent cannot be sustained and it is liable to be quashed.

9. Accordingly, this writ petition is allowed and the impugned order dated 18.10.2023, passed by the second respondent, is hereby quashed. The petitioner is at liberty to present the sale deed in respect of the subject property for registration before the second respondent. On receipt of the same, the second respondent is directed to register the sale deed and release the document forthwith. No costs. Consequently, connected miscellaneous petition is closed.

Internet : Yes
Index : Yes/No
Speaking/Non Speaking order
am

19.11.2024

To

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G.K.ILANTHIRAIYAN, J.

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