



W.P.(MD)No.2621 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2024

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.2621 of 2018

and

W.M.P.(MD)No.2814 of 2018

S.Amutha

... Petitioner

Vs.

1.The District Registrar,
Theni District, Theni.

2.The Sub-Registrar,
Chinnamanur,
Theni District.

3.Balaji

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records of the impugned unilateral cancellation of settlement deeds dated 28.11.2014 and 18.11.2014 in document Nos.4632 and 4554 of 2014 respectively registered with the second respondent and quash the same.

For Petitioner	: Mr.P.Saravanakumar
For R1 & R2	: Mr.P.Subbaraj Special Government Pleader
For R3	: Mr.R.Saravanan



ORDER

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In this writ petition, a challenge has been made to the unilateral cancellation of the settlement deed executed by the third respondent.

2.The contention of the petitioner is that the third respondent is the petitioner's brother and he had executed a settlement deed in favour of the petitioner in the year 2014. The petitioner in the year 2017 came to know that the third respondent had unilaterally cancelled the settlement deed executed in his favour even without the knowledge of the petitioner.

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 :

*“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 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. Hence, the unilateral



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cancellation of the settlement deed 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 Settlement Deeds bearing Document Nos.4632 and 4554/2014 on the file of the second respondent is set aside. Consequently, connected miscellaneous petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

08.08.2024

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

- 1.The District Registrar,
Theni District, Theni.
- 2.The Sub-Registrar,
Chinnamanur,
Theni District.



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N.SATHISH KUMAR, J.

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