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**W.P.(MD) No.30962 of 2023**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 07.11.2024**

**CORAM:**

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

**W.P.(MD) No.30962 of 2023**

C.Suriyakala

... Petitioner

-VS-

1.The Inspector General of Registration  
100, Santhome High Road  
Pattinapakkam  
Chennai-600 028

2.The District Registrar  
Registration Department  
1<sup>st</sup> Street, Polpettai West  
Thoothukudi

3.The Sub Registrar  
Melur  
Office at Integrated Building  
1<sup>st</sup> Street, Polpettai West  
Thoothukudi

4.V.Chelladurai

5.P.Mayilvel

6.N.Ponnlakshmi

... Respondents



**W.P.(MD) No.30962 of 2023**

WEB COPY

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 3 to declare the deed of unilateral cancelled settlement deed executed by the fourth respondent on the file of the third respondent in document bearing No.2064 of 2016 dated 11.07.2016 and as null and void and consequently direct the third respondent to release the deed of settlement dated 01.10.2015 registered as document No. 3417 of 2015.

For Petitioner : Mr.S.Ramasamy

For Respondents : Mr.S.P.Maharajan  
Special Government Pleader for R1 & R2  
R4 – Died  
Tapal Due for R3, R5 & R6

### **ORDER**

This writ petition has been filed to declare the deed of unilateral cancellation of the settlement deed dated 11.07.2016, registered as document No.2064 of 2016, executed by the fourth respondent, as null and void and to direct the third respondent to release the settlement deed forthwith.



WEB COPY

**W.P.(MD) No.30962 of 2023**

**2.** Though notice has been sent to the respondents 4 to 6, the notices were returned with endorsements “deceased”, “unclaimed” and “door locked” respectively.

**3.** The petitioner is the daughter of the fourth respondent. The fourth respondent is having three female children. The property comprised in Survey No.557/1B in Plot No.26, to an extent of 5.51 Cents, situated at Meelavittan Village, Thoothukudi District, was purchased by the fourth respondent under a sale deed dated 06.02.2008 and registered as document No.389 of 2008. Thereafter, he executed a settlement deed in favour of his three daughters, including the petitioner herein, under a settlement deed dated 01.10.2015 and registered as document No.3417 of 2015. Subsequently, the daughters of the fourth respondent constructed a house in the said property and were in enjoyment of the said property. In such circumstances, the fourth respondent unilaterally cancelled the above settlement deed, without the knowledge of the petitioner and her two sisters under a cancellation deed dated 11.07.2016 and registered as document No. 2064 of 2016. Hence, this writ petition.



WEB COPY

**W.P.(MD) No.30962 of 2023**

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

5. The only point involved in this writ petition is whether the unilateral cancellation deed can be sustained or not.

6. The above issue has already been decided by the Honourable Full Bench of this Court in the case of **Sasikala vs. Revenue Divisional Officer**, reported in **2022 (4) LW 481**, wherein in Paragraph No.44, it 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 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*



WEB COPY

**W.P.(MD) No.30962 of 2023**

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.”*



**W.P.(MD) No.30962 of 2023**

WEB COPY

**7.** As per the said decision, unilateral cancellation of sale deed or a deed of conveyance is wholly void and not 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. Hence, the petitioner is entitled to succeed.

**8.** Accordingly, this writ petition is allowed and the unilateral cancellation deed executed by the fourth respondent, dated 11.07.2016 and registered as document No.2064 of 2016, on the file of the third respondent, is hereby declared as null and void.

**9.** It is brought to the notice of this Court that after cancellation of the settlement deed, the fourth respondent had executed a power of attorney in favour of the fifth respondent, who in turn executed a sale deed in favour of the sixth respondent, who is his wife. Therefore, in view of declaration of the unilateral cancellation deed as null and void, the subsequent deeds executed by the fourth respondent and the fifth respondents have also become void.



WEB COPY

**W.P.(MD) No.30962 of 2023**

**10.** Though the mother of the petitioner and her sisters is alive, they need not substitute their mother in place of the deceased fourth respondent, since unilateral cancellation of settlement deed is bad in the eye of law. Therefore, the question of substituting the wife of the deceased fourth respondent in his place does not arise at all. No costs.

**07.11.2024**

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

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To:

- 1.The Inspector General of Registration,  
100, Santhome High Road,  
Pattinapakkam,  
Chennai-600 028.
- 2.The District Registrar,  
Registration Department,  
1<sup>st</sup> Street, Polpettai West,  
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- 3.The Sub Registrar,  
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**W.P.(MD) No.30962 of 2023**

**G.K.ILANTHIRAIYAN, J.**

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