



WEB COPY

WP No. 10645 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-04-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 10645 of 2025

AND

WMP NO. 11992 OF 2025

1. S.Ramesh

No.36/68,Big Street, Sevilimedu,
Kancheepuram 631 502

2.S.Suresh

No.36/68,big Street, Sevilimedu,
Kancheepuram 631 502

Petitioner(s)

Vs

1. The Sub Registrar Joint-II

Sub Registrar Office, Kancheepuram-
631 502

2.D.Vinayaga Moorthi

S/o.Damodaran, No.77, Road Street,
Sevilimedu Post, Kancheepuram Taluk,
Kancheepuram -631 502

Respondent(s)

PRAYER



Writ petition filed under Article 226 of Constitution of India for the issue of writ of declaration declaring that the family Revocation Deed dated 30.5.2007 regd.as doc.No.4679 of 2007 and the consequential settlement deed dated 8.1.2010 registered as doc.No.59 of 2010 both on the file of the 1st respondent are null and void and consequently direct the 1st respondent to delete the entry of the Family Revocation Deed dated 30.5.2007 regd as doc.No.4679 of 2007 and consequential Settlement Deed dated 8.1.2010 registered as doc.No.59 of 2010 from the encumbrance certificate and pass such further or other orders.

For Petitioner(s): A.Jenasenan

For Respondent(s): Mr.U.Baranidharan SGP Takes
Notice For R1

ORDER

This writ petition has been filed challenging the unilateral cancellation of the partition deed dated 09.08.2000 registered as document No.2130 of 2000 and to declare the same as null and void and to direct the 1st respondent to delete the entry made while entertaining the revocation deed dated 30.05.2007 which was registered as document No.4679 of 2007 and also the consequential settlement deed dated 08.01.2010 which was registered as document No.59 of 2010.

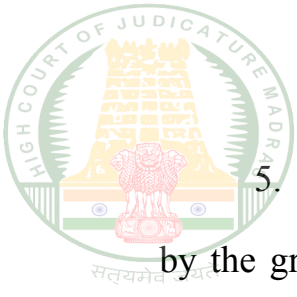
2. Heard the learned counsel for the petitioner and Mr.U.Baranidharan, learned Special Government Pleader appearing on behalf of



the 1st respondent. Though the 2nd respondent has been served with notice and the name of the 2nd respondent has also been printed in the cause list, there is no appearance either in person or through counsel.

3. The only issue that is involved in the present writ petition is as to whether the unilateral cancellation of the partition deed dated 09.08.2000 through the revocation deed dated 30.05.2000 is valid in the eye of law.

4. On carefully going through the partition deed dated 09.08.2000, it is seen that the petitioners are the sons of one Subraminan and the said Subramanian died on 09.10.1992 leaving behind the petitioners, their mother and one sister. They were under the care of their grand father. Considering the future of the petitioners, the grand father wanted to allot some of the properties in their favour. Hence, a partition deed dated 09.08.2000 was entered into between the petitioners, who were represented through their mother as guardian and their grand father. Under this partition deed, the properties mentioned in the B schedule was allotted to the petitioners. This partition deed was registered as document No.2130 of 2000. As per the partition deed, the petitioners are put in possession of the property and they were made as the absolute owner of the B schedule property. Thus, the partition deed has created a right, title and interest in favour of the petitioners.



5. In the year 2007, unilateral cancellation deed came to be executed by the grand father. In this revocation deed, it has been stated that one of the elder son was left out and therefore, he wants to cancel the partition deed dated 09.08.2000.

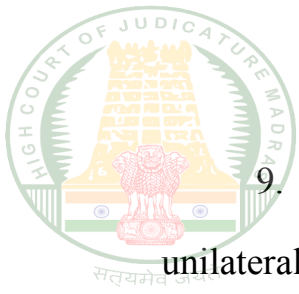
6. When the revocation deed was executed by the grand father, the grand father had already lost his right and title over the properties mentioned in the B schedule in the partition deed dated 09.08.2000. That apart, a deed of partition is in the nature of a contract between the parties where the parties decide to allot properties to the respective sharers and after the said partition deed is acted upon, the sharers become the absolute owner of the properties allotted to them. Therefore, if at all the partition deed has to be cancelled, all the parties must come together and cancel the partition deed. If the same is not done and one of the parties cancels the partition deed unilaterally, the same is illegal and it will not bind the co-sharers who had already acquired a right and title over the property, which was allotted to them through partition.

7. The law that was applied by this Court while declaring the unilateral cancellation of sale deed, settlement deed / gift deed, to be null and void in *[Latif Estate Line India Ltd., rep. By its Managing Director and another Vs. Mrs Hadeeja Ammal and others]* reported in *AIR 2011 Mad 66* and in *[Sasikala Vs. Revenue Divisional Officer cum Sub Collector]* reported in *2022 5 CTC 257* can be taken note of while dealing with the present issue.



Those are cases where the right and title in a property sold / conveyed /settled in favour of another person and thereafter, an attempt is made to cancel those documents unilaterally. In the case in hand, the parties have agreed to partition the properties among each other and a partition deed was entered into and it was registered and acted upon. Thereafter, one of the parties to the partition deed cannot unilaterally cancel the partition deed to the detriment of the other. Such unilateral cancellation will not bind the co-sharer, who has already obtained a right and title over the property by virtue of the earlier partition deed entered into between the sharers.

8. In the light of the above discussion, the 2nd respondent ought not to have entertained a revocation deed dated 30.05.2007 and registered the same as document No.4679 of 2007. Such registration of the unilateral revocation deed is illegal and does not bind the petitioners and insofar as the petitioners are concerned, it is non-est in the eye of law. In view of the same, the subsequent settlement deed dated 08.01.2020 registered as document No.59 of 2010 which includes the property that was allotted in favour of the petitioners under partition deed dated 09.08.2000, in favour of the 2nd respondent is also not binding on the petitioners and it is non-est insofar as it deals with the properties that were already allotted in favour of the petitioners under the partition deed dated 09.08.2000.



9. In the light of the above discussion, this Court declares that the unilateral revocation deed dated 30.05.2007 registered as document No.4679 of 2007 is not binding on the petitioners. Similarly, the settlement deed dated 08.01.2010 registered as document No.59 of 2010 is not binding on the petitioners insofar as dealing with the properties already allotted in favour of the petitioners under partition deed dated 09.08.2000. There shall be a direction to the 1st respondent to make an entry in the encumbrance register by taking note of the present order passed in the writ petition which will reverse the earlier entry made while registering the revocation deed dated 30.05.2000. Similarly, it will also reverse the registration of the settlement deed dated 08.01.2010 insofar as the properties belonging to the petitioners which was dealt with in the settlement deed. This process shall be completed by the 1st respondent within a period of four weeks from the date of receipt of a copy of this order.

10. In the result, this writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

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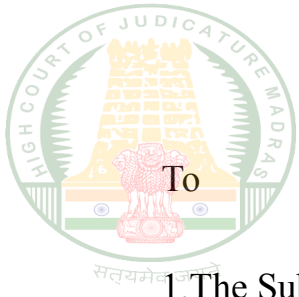
rka

Index:Yes

Speaking

Internet:Yes

Neutral Citation:Yes/No



To

1. The Sub Registrar Joint II
Sub Registrar Office, Kancheepuram-
631 502

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N.ANAND VENKATESH J.
rka

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