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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-10-2025

CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**WA No. 2395 of 2025
and
CMP No. 18229 of 2025**

A. Amirtharaj

Appellant(s)

Vs

1.A.Purushothaman

2.The Sub-Registrar
Office of the Sub Registrar,
Parangipettai-608502.

Respondent(s)

PRAYER

Writ Appeal filed under Clause 15 of Letters Patent, to allow this Writ Appeal by setting aside the Order dated 31.07.2024 made in W.P.No.21257 of 2024.

For Appellant(s): Mr.N.Jothi
Senior Counsel
For Mr. B.Natarajan



For Respondent(s): Mr.L.Chandrakumar For R1
Mr.U.Baranidharan
Special Government Pleader
For R2

J U D G M E N T

(Judgment was delivered by S.M.Subramaniam J.)

Under assail is the writ order dated 31.07.2024 passed in W.P.No.21257 of 2024. The 2nd respondent in the writ petition is the appellant before this Court.

2. The grounds of appeal mainly raised are that the Writ Court passed the impugned order at the admission stage, and therefore, the appellant had no opportunity to defend his case. The Writ Court in paragraph 4 made certain observations about the settlement deed, unilateral cancellation of settlement deed by the father of the appellant and the subsequent sale deed executed by the 1st respondent. All the above three documents were executed by the father of the appellant and 1st respondent.



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3. As far as the unilateral cancellation of settlement deed is concerned, the 1st respondent/Purushothaman earlier filed W.P.No.29050 of 2014 and the Writ Court passed an order on 30.03.2022 allowing the writ petition based on the legal position settled by the Hon'ble Full Bench of this Court in the case of ***M/s.Latif Estate Line India Ltd. Vs. Mrs. Hadeeja Ammal***¹, and in the case of ***Sasikala vs. The Revenue Divisional Officer, cum Sub Collector, Devakottai and Others***².

4. Challenging the said order, a writ appeal has been preferred by the appellant herein with a delay of 1068 days and the said condone delay petition was dismissed, since the delay was enormous and not explained to the satisfaction of the Court.

5. As far as the writ order impugned is concerned, the relief sought for is to direct the Sub Registrar to cancel the sale deed registered in Document No.2549 of 2013 dated 11.10.2013, pursuant to the order passed in W.P.No.29050 of 2014 dated 30.03.2022. However, the relief sought for in the

1 2011 (2) CTC 1

2 (2022) 7 MLJ 1



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writ petition itself is misconceived, as the Sub Registrar has no power under the Registration Act, 1908, to cancel a sale deed. While so, the Writ Court in exercise of powers of judicial review cannot issue a direction under Article 226 to cancel the sale deed executed by Mr.Arumugam, who is no more. Thus, the Writ Court ought not to have entertained the writ petition at all. The relief sought for to cancel the sale deed registered under the Registration Act is not maintainable. The power earlier conferred to the Registration Officials under Section 77-A of the Registration Act was also struck down by the Division Bench of this Court. In the absence of any power to the Sub Registrar to cancel the sale deed, High Court cannot issue a direction to the Sub Registrar to cancel the sale deed which would fall beyond the realm of the powers of judicial review.

6. Unilateral cancellation of the settlement deed was set aside by the Writ Court on the basis of the principles laid down by the Hon'ble Full Bench. Therefore, the civil rights are to be established between the parties in the manner known to law and by approaching the Civil Court of Law.



7. In the present case, admittedly a Civil Suit has been instituted in O.S.No.24 of 2013 on the file of the District Court, Cuddalore, which is pending. While so, it is unnecessary for the Writ Court to entertain such writ petition seeking a direction to cancel the sale deed based on the earlier writ order, setting aside the unilateral cancellation of settlement deed.

8. In the present case, the Writ Court made an observation in paragraph 4, which would cause prejudice to the interest of the appellant in defending the suit on merits and in accordance with law. That exactly is the reason why the Writ Courts are expected to exercise restraint in entertaining such reliefs relating to cancellation of sale deeds registered under the Registration Act, 1908. It is all about title and ownership or claiming right over the property. Such disputed issues cannot be adjudicated in writ proceedings. Any indirect form of adjudication or seeking a relief in a writ proceeding at no circumstances be encouraged.

9. In the present case, the father of the appellant and the 1st respondent deceased Arumugam executed all the three documents namely settlement



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deed, cancellation of settlement deed and sale deed. That being so, an elaborate adjudication of disputed issues are of paramount importance for the purpose of crystallization of civil rights between the parties.

10. Under these circumstances, the arguments advanced on behalf of the 1st respondent are neither candid nor convincing. Thus, the writ order impugned dated 31.07.2024 in W.P.No.21257 of 2024 is set aside. The parties are at liberty to establish their respective civil rights before the Civil Court in the manner known to law.

11. Accordingly, the Writ Appeal stands allowed. Consequently, the connected Miscellaneous Petition is closed. There shall be no order as to costs.

(S.M.SUBRAMANIAM J.)(MOHAMMED SHAFFIQ J.)

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Index:Yes/No

Speaking/Non-speaking order

Neutral Citation:Yes/No

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To
The Sub Registrar
Office of the Sub Registrar,
Parangipettai-608502



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**S.M.SUBRAMANIAM J.
AND
MOHAMMED SHAFFIQ J.**

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