



W.P.No.23087 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2025

CORAM:

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

W.P.No.23087 of 2018
and W.M.P.No.26974 of 2018

T.Umapathi

... Petitioner

-Vs-

1. The Sub Registrar,
Office of the Sub Registrar,
Pernampet, Vellore District.
2. The Manager,
Canara Bank,
Pernampet Branch,
Pernampet, Gudiyatham Circle,
Vellore District.
3. R.Thirunavukkarasu Mudaliar (Deceased)
4. D.Geetha
5. Padmanaban
6. Manjula
7. Vijaya Kumar
8. Vani
9. Thulasi
10. Sundari
(R5 to R10 substituted
as per order dated 24.09.2025
in W.M.P.No.41480 of 2025
in W.P.No.23087 of 2018)

... Respondents



W.P.No.23087 of 2018

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, call for the records in connection with Document No.1801/2012 dated 13.06.2012 and Document No. 1877 of 2012 dated 22.06.2012 and any other consequential documents created by the 3rd and 4th respondents in connection with property in Vellore District, Gudiyatham Taluk, Pernampet Sub Registrar Office, Pathalapalli Village, Nanjai Survey No.86/2, 0.22.5 (Acres 0.56) hectares, and Punjai Survey No.87, 1.66.5 hectares (Acres 4.12) Bounded on the East by: Vijayan's Land; West by: petitioner property, North by: The above said property; South by: Common pathway and the property in Punjai S.No.97/3, hectares 0.62.0 (Acres 1.53) Bounded By: East by petitioner property, North by: Common pathway, West by: Padmanabhan Land, South by S.No.97/1C3, 97/1D1-hectares 0.29.0 (Acres 0.72) and the property situated within the limit of Pathalapalli Panchayat Union, in Punjai S.No.86/4, 1/4th part, with 5 HP Pump set vide S.C.No.22, with the first respondent herein and quash the same as illegal and improper and consequently direct the first respondent herein to remove the encumbrance from his records.

For Petitioner	: Mr.S.Kingston Jerold
For R1	: Mr.U.Baranidharan Special Government Pleader
For R3 and R4	: Mr.D.Senthilkumar

ORDER

This Writ Petition has been filed challenging the unilateral cancellation of settlement deed vide Document No.1801 of 2012 dated 13.06.2012 and Document No.1877 of 2012 dated 22.06.2012.



W.P.No.23087 of 2018

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2. Heard the learned counsel for the petitioner, the learned Special Government Pleader for the first respondent and the learned counsel for the respondents 3 and 4 and perused the materials available on record.

3. The properties comprised in S.No.86/2 to an extent of 0.56 acres, in S.No.87 to an extent of 0.88 acres, in S.No.97/3 to an extent of 0.72 acres and in S.No.86/4 to an extent of 1/4th along with pump set owned by the third respondent. Subsequently, he had settled the properties in favour of the petitioner by the settlement deed dated 02.04.2007 vide Document No.495 of 2007. The petitioner is the elder son of the third respondent. Thereafter, in the year 2012, without any notice, without the knowledge of the petitioner herein and without adding the petitioner as a party, the third respondent unilaterally cancelled the settlement deed executed in favour of the petitioner by the cancellation deed dated 13.06.2012 registered vide Document No.1801 of 2012. Subsequently, on 22.06.2012, the third respondent had executed a settlement deed in respect of the very same property in favour of the fourth respondent herein, vide Document No.1877 of 2012. Now, the third respondent died and other legal heirs are impleaded as respondents 5 to 10.



W.P.No.23087 of 2018

4. The learned counsel for the respondents 3 and 4 submitted that pending writ petition, there was settlement between the petitioner and the third respondent. However, the money was denied by the petitioner. In this regard, it is relevant to rely upon the Judgment reported in **2017(2) CWC 796 dated 31.07.2017 P.A.G.Kumaran -vs- Inspector General of Registration** held as follows:

"13. According to the learned counsel for the petitioner, it is not only based on the judgment of the Apex Court reported in 2014 (4) CTC 572 (SC) (cited supra) that this Court has rendered a finding with regard to the cancellation of settlement deed, in W.P.No.6230 and 6231 of 2011 (cited supra), but also referring to the judgment of the Full Bench of this Court reported in 2011 (2) CTC 1 (cited supra) to show that when once the property is settled, it cannot be overruled or ignored that a unilateral cancellation at the instance of the person who has settled the property, can be cancelled, unless and otherwise it establishes fraud or against the public policy.

14. Though it has been vociferously contended by the learned counsel for the third respondent that the deed of cancellation can be done by the respondents 1 and 2 and in view of the judgment of the Full Bench of this Court reported in 2011 (2) CTC 1 (cited supra), as could be seen from paragraphs quoted therein above, it is no doubt true that the Writ Petition is maintainable, provided there are no disputed questions of fact. In this case, there is clear evidence to show that there are disputed questions of facts, namely that after the property has been settled in favour of the petitioner, under the guise of family dispute, the registration of the property was sought to be cancelled.

15. Though it is not in dispute that the property was purchased by the third respondent, as admitted by the petitioner, there is subsequent development which led to the settlement of the property in favour of the petitioner by the third respondent.



Naturally, to avoid any stamp duty, such registration has taken place between the husband and wife and when the dispute arose, it comes to light as to under what circumstances, the property has been settled in favour of one person by the spouse. Since, as narrated by the third respondent in the counter that there are disputed questions of facts, the matter has got to be resolved only before the civil forum. This Court cannot render any finding based on the disputed questions of fact, as the parties will have to let in evidence.

16. In view of the fact that the unilateral cancellation of the settlement deed made by the first and second respondents is bad, this Court declares that the said cancellation of document, namely Deed of Cancellation of Settlement deed, registered as Document No.3328 of 2014, dated 10.11.2014, is illegal and in view of the same, the first and second respondents are directed to remove the entries in the Register and the subsequent transaction, namely settling the property in favour of the son of the third respondent, made pursuant to the unilateral cancellation of settlement deed, is also null and void. All the entries have got to be removed and this has got to be done within one month from the date of receipt of a copy of this order. This Court makes it clear that this order will not prevent the third respondent from approaching the Civil Court and establish her right over the property in question and if done, the Civil Court shall decide the matter without being influenced by any of the observations made in this writ petition touching on the merits of the matter. As this Court has held that the cancellation of settlement deed is illegal and without jurisdiction, and declared the same as null and void, if any suit is filed, the same has got to be decided by the Civil Court in accordance with law, including the issue of limitation. If the third respondent goes before appropriate forum with regard to the cancellation of settlement deed, which is the subject matter of this Writ Petition, this Court expects that the said civil forum to decide the matter as expeditiously as possible, from the date of initiation of such suit, and the matter shall not be adjourned beyond seven working days at any point of time. The petitioner shall co-operate in the trial if such suit is filed."



W.P.No.23087 of 2018

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5. In fact, after the settlement deed being executed in favour of the petitioner, the petitioner also subsequently mortgaged the subject property to the second respondent by executing mortgage deed.

6. In view of the above, the cancellation of settlement deed and subsequent settlement deed executed in favour of the fourth respondent cannot be sustained and are liable to be quashed. Accordingly, the cancellation of settlement deed vide Document No.1801 of 2012 dated 13.06.2012 and subsequent settlement deed executed in favour of the fourth respondent vide Document No.1877 of 2012 dated 22.06.2012 are hereby quashed. The fourth respondent is at liberty to approach the Civil Court for appropriate relief.

7. In the result, this writ petition stands allowed. Consequently, connected Miscellaneous petition is closed. No costs.

24.09.2025
(2/2)

Internet: Yes
Index : Yes/No
Neutral Citation: Yes/No
Speaking/Non Speaking order
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W.P.No.23087 of 2018

To

1. The Sub Registrar,
Office of the Sub Registrar,
Pernampet, Vellore District.
2. The Manager,
Canara Bank,
Pernampet Branch,
Pernampet, Gudiyatham Circle,
Vellore District.



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W.P.No.23087 of 2018

G.K.ILANTHIRAIYAN. J,

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W.P.No.23087 of 2018

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