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W.A.No.3438 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.A.No. 3438 of 2024

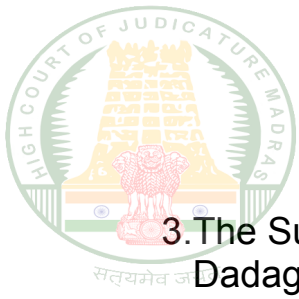
- 1.A.Sekar
- 2.Lakshmi
- 3.Rajammal
- 4.Anjalam
- 5.P.Thangamani
- 6.P.Manivannan
- 7.D.Poornima
- 8.P.Revathi
- 9.P.Ramya
- 10.Sujeetha

[Rep. by her Power of Attorney P.Thangamani, 5th appellant]

...Appellants

Vs.

- 1.The Inspector General of Registration,
Santhome, Chennai – 600 004.
- 2.The District Registrar, Salem (East),
Integrated Building Complex,
Kumaragiri Bye Pass Road, Ammapet,
Salem – 636 014.



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3. The Sub-Registrar Office,
Dadagapatti,
Integrated Building Complex,
Kumaragiri Bye Pass Road,
Ammamet, Salem – 636 014.

...Respondents

PRAYER: The Writ Appeal filed under Clause 15 of the Letters Patent praying to set aside the order passed in W.P.No.2482 of 2024 dated 05.02.2024.

For Appellants : Mr.A.K.Kumarasamy, Senior Counsel
For Mr.S.Arjun
For Respondents: Mr.U.Baranidharan,
Spl. Govt. Pleader

J U D G M E N T

(Judgment of the Court was delivered by S.M.SUBRAMANIAM, J.)

Under assail is the writ order dated 05.02.2024 made in W.P.No.2482 of 2024.

2. The writ petitioners are the appellants. The facts in nutshell show that the father of the appellants 1 to 4 had executed a settlement deed dated 13.06.1976 in favour of the 1st appellant Mr.Sekar. Subsequently, the settlor late Angamuthu unilaterally cancelled the settlement deed by executing a cancellation deed on 05.09.1990. The

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settlor late Angamuthu died on 28.11.2016. After the death of the settlor, his legal heirs have filed a Writ Petition to nullify the cancellation of the settlement deed dated 13.06.1976 on 05.09.1990.

3. The writ Court dismissed the Writ Petition mainly on the ground that there was a long delay in seeking the relief. The settlor died on 28.01.2016 and the Writ Petition was filed after a lapse of 8 years from the date of the death of the settlor. This Court is of the considered view that all the legal heirs of late Angamuthu have chosen to file a Writ Petition seeking cancellation of the cancellation deed executed in favour of the 1st appellant. Secondly the Writ Court has made a finding that there is a possibility of claiming adverse possession. If at all any third party interest has been already created, that is to be determined or adjudicated in the manner known to law.

4. As far as the relief sought for in the Writ Petition is concerned, unilateral cancellation of settlement deed is impermissible and the issues in this regard are no more *res integra* and settled by the Full Bench of this Court in the case of **Latif Estate Line India and Others vs. Hadeeja Ammal and Others**¹, and the relevant paragraphs are

¹2011 (2) CTC 1



extracted hereunder:

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“48. Section 54 of the Transfer of Property Act defined the word "Sale", which means transfer of ownership by one person to another. In other words, sale is transfer of all rights, title and interest in the properties which are possessed by the transferor to another person namely., the purchaser. In case of transfer by way of sale, the transferor cannot retain any part of his interest or right in that property. Such transfer of ownership must be for a price paid or promised or part-paid and part-promised. Even if the whole price is not paid, but the document is executed and registered, the sale would be complete. The transfer is complete and effective upon the completion of the registration of the sale deed. Once the vendor is divested himself of his ownership of the property, then he retains no control or right over the said property.

54. There is no provision in the Transfer of Property Act or in the Registration Act, which deals with the cancellation of deed of sale. The reason according to us is that the execution of a

deed of cancellation by the vendor does not create, assign, limit or extinguish any right, title



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or interest in the immovable property and the same has no effect in the eye of law. A provision relating to the cancellation of a document is provided in Section 31 of the Specific Relief Act, 1963 (Old Section 39). Section 31 reads as under:

31. *When cancellation may be ordered:*

(1) Any person against whom a written instrument is void or void able, and who has reasonable apprehension that such instrument, if left out standing, may cause him serious injury, may sue to have it adjudged void or void able, and the Court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

(2) If the instrument has been registered under the Indian Registration Act, 1908 (16 of 1908), the Court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such officer shall note on the copy of



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the instrument contained in his books the fact of its cancellation.

55. *From the reading of the aforesaid provision, it is manifest that three conditions are requisite for the exercise of jurisdiction to cancel an instrument ie.,*

- (1) An instrument is avoidable against the Plaintiff;*
- (2) The Plaintiff may reasonably apprehend serious injury by the instrument being left or outstanding; and*
- (3) In the circumstances of the case, the Court considers it proper to grant this relief of preventive justice.*

56. *A Full Bench of the Madras High Court in the case of Muppudathi Pillai v. Krishnaswami Pillai MANU/TN/0455/1959 : AIR 1960 Mad 1 elaborately discussed the provision of Section 39 (New Section 31) and held:*

12. The principle is that such document though not necessary to be set aside may, if left outstanding, be a source of potential mischief. The jurisdiction under Section 39 is, therefore, a protective or a preventive one. It is not confined to a case of fraud, mistake, undue influence, etc. and as it has been stated it was to prevent a



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document to remain as a menace and danger to the party against whom under different circumstances it might have operated. A party against whom a claim under a document might be made is not bound to wait till the document is used against him. If that were so he might be in a disadvantageous position if the impugned document is sought to be used after the evidence attending its execution has disappeared. Section 39 embodies the principle by which he is allowed to anticipate the danger and institute a suit to cancel the document and to deliver it up to him. The principle of the relief is the same as iniquitous actions.

57. There is no dispute that a third party can claim title to the property against the purchaser who purchased the property for valuable consideration and came into possession of the same. But it is the Civil Court of competent jurisdiction to give such declaration in favor of the third party or a stranger.

58. It can also not be overlooked or ignored that a unilateral cancellation of a sale deed by registered instrument at the instance of the vendor only encourages fraud and is against public policy. But there are circumstances where



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a deed of cancellation presented by both the vendor and the purchaser for registration has to be accepted by the Registrar if other mandatory requirements are complied with. Hence, the vendor by the unilateral execution of the cancellation deed cannot annul a registered document duly executed by him as such an act of the vendor is opposed to public policy.”

5. The legal position was further confirmed by the subsequent Full Bench Judgment in the case of **Sasikala vs. The Revenue Divisional Officer, cum Sub Collector, Devakottai and Others**². The relevant paragraphs are extracted here under:

“54. The third step namely the act of registration, is something that the Registering Authority is called upon to do statutorily. While the executant of the document and the person claiming under the document (claimant) are the only actors involved in the first two steps, the Registering Officer is the actor in the third step. Apart from the third step which is wholly in the domain of the Registering Authority, he may also have a role to play in the second step when a document is presented for registration and the execution thereof is admitted. The role that is

²(2022) 7 MLJ 1



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assigned to the Registrar in the second step is that of verification of the identity of the person presenting the document for registration.

55. Thus, the first two steps in the process of registration are substantial in nature, with the parties to the document playing the role of the lead actors and the Registering Authority playing a guest role in the second step. The third step is procedural in nature where the Registering Authority is the lead actor.

...

*59. Much ado was sought to be made by contending that the Appellant approached the High Court without disclosing the previous orders of the High Court and this Court, relegating them to civil court for the adjudication of their claim. Reliance was also placed in this regard on the decision of this Court in **Raj Kumar Soni vs. State of U.P.** (2007) 10 SCC 635.”*

6. In view of the judgments (cited *supra*), the unilateral cancellation of settlement deed executed in favour of the petitioner is liable to be set aside. However, the grant of writ relief in favour of the appellants would not be a bar in respect of any other claim, if any, exists with the third parties during the interregnum period.



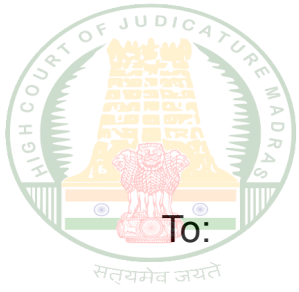
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7. With these observations, the writ order dated 05.02.2024 made in W.P.No.2482 of 2024 is set aside. Consequently, the Writ Appeal stands **allowed**. No costs.

(S.M.S., J.) (C.S.N., J.)
15.09.2025

dsa
Index :Yes/No
Neutral Citation :Yes/No
Speaking/Non-speaking order



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To:

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Santhome, Chennai – 600 004.
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