



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-07-2025

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

WP No. 17420 of 2025

and W.M.P.Nos.19758, 19759 & 19760 of 2025

1. Sathiyamoorthy

S/o. Ponnusamy, 7/220, S.R.S House,
Kattur, Genganaickenpalayam,
Palladam, Tiruppur 641 667.

Petitioner(s)

Vs

1. The Inspector General Of
Registration,
No.100, Santhome High Road,
Pathinapakkam, Chennai 600 028.

2.The Sub Registrar,
Saidapet Sub Registrar, 537, Fanepet,
Nandanam, Chennai 600035.

3.Vgp Housing Private Limited,
Having Its Registered Office At Vgp
Square, No.6, Dharmaraja Koil Street,
Saidapet, Chennai 600015.

4.Louis Clement Pais,
S/o. C.Pais, Edenhurat, Bejay,
Mangalore, Karanataka 575 004.



Respondent(s)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records relating to unilateral cancellation of sale deed vide Document No.3068 /1985 dated 11/10/1985 on the file of the 2nd respondent and consequentially direct the 2nd respondent to remove the corresponding entries in the Encumbrance Certificate.

For Petitioner(s): Mr.Naveen Kumar Murthi
for Ms.S.Varsha

For Respondent(s): Mr.U.Baranidharan
Special Govt. Pleader
for R1 and R2

Mr.Arun C.Mohan for R3

M/s.Chandini Pradeep Kumar
for R4

ORDER

By consent of learned counsel on both sides, this writ petition is taken up for final disposal at the admission stage itself.

2. This Writ Petition has been filed for the issuance of a writ of certiorarified mandamus to call for the records relating to unilateral cancellation of sale deed vide Document No.3068 /1985 dated 11/10/1985 on the file of the



2nd respondent and consequentially direct the 2nd respondent to remove the corresponding entries in the Encumbrance Certificate.

WEB COPY

3. The challenge is on the premise that the unilateral cancellation of the sale deed has been found to be impermissible by the Full Bench of this Court in the case of *Latif Estate Line India Ltd., and Ors. Vs. Hadeeja Ammal and Ors.* reported in (2011) 1 LW 673.

4. It is stated that the subject property originally vested / owned by the fourth respondent. The fourth respondent executed a deed of Power of Attorney dated 16.04.1983 in favour of the third respondent registered as document No.117 of 1983 on the record of the Sub-Registrar Office, Saidapet. The third respondent in his capacity as Power of Attorney of the fourth respondent conveyed the subject property to one K.B.I. Consultants under a sale deed dated 14.12.1983 registered as Document No.3786/1983 on the record of the Sub-Registrar Office, Saidapet. K.B.I. in turn sold the property to one B.C.P. Selvam vide sale deed dated 24.03.2003 registered as Document No.298/2003 on the record of the Sub-Registrar Office, Kodaikanal. B.C.P. in turn sold the property to the petitioner under a sale deed dated 10.06.2013 registered as document No.1188/2013 on the file of the Sub-Registrar Office, Kodaikanal.

5. It is the case of the petitioner that the purchase of the subject property was made by him and encumbrance certificate did not reflect any entry relating



to the cancellation of the sale deed dated 14.12.1983. It was only recently the petitioner while verifying the encumbrance certificate discovered that there is an entry of cancellation of the sale deed dated 14.12.1983 vide document No.3068/1985 dated 11.10.1985. It is in these circumstances the petitioner had now challenged the unilateral cancellation of the sale deed dated 14.12.1983. The question as to legality of unilateral cancellation of the sale deed is no longer *res integra*. The same has been decided by a Full Bench of this Court in ***Latif Estate Line India Ltd., and Ors. Vs. Hadeeja Ammal and Ors.*** reported in **(2011) 1 LW 673** wherein it has been held that there cannot be unilateral cancellation of the sale deed. The relevant portion of the said judgment is extracted hereunder:

“ 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 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



WEB COPY

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 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.,

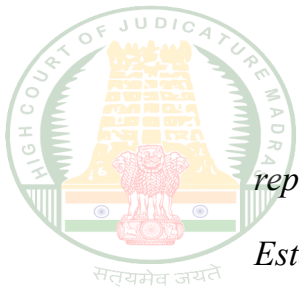
(1)An instrument is avoidable against the Plaintiff;

(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.”

6. The above judgment of the Full Bench of this Court has been followed by an another Full Bench in ***Sasikala Vs. Revenue Divisional Officer*** reported in **2022 (5) C.T.C. 257** wherein it has been held as under:

“ 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.,



WEB COPY

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 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 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.

WEB COPY

(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.”

7. In view thereof, this Court finds that there is a merit in the submission of the learned counsel for the petitioner and this Court is of the view that the unilateral cancellation of sale deed will not be permissible.

8. The learned counsel for the fourth respondent does not have any objection and would submit that they are more of a formal party at this stage.

9. In view of the above, this writ petition is allowed and the unilateral cancellation of the sale deed vide Document No.3068 /1985 dated 11/10/1985 on the file of the 2nd respondent is hereby quashed. The second respondent is directed to remove or make an entry of this order in the encumbrance certificate. It is always open to the third respondent to workout the remedies in the manner known to law. No costs. Connected miscellaneous petitions are closed.

16-07-2025

Index:Yes/No

Speaking/Non-speaking order

Neutral Citation:Yes/No

bkn



WP No. 17420 of 2025



MOHAMMED SHAFFIQ J.

bkn

WEB COPY

To

1.The Inspector General Of
Registration,

No.100, Santhome High Road, Pathinapakkam, Chennai 600 028.

2.The Sub Registrar,

Saidapet Sub Registrar, 537, Fanepet, Nandanam, Chennai 600035.

WP No. 17420 of 2025

16.07.2025