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W.A.No.3460 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2025

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

W.A.No.3460 of 2025
and
C.M.P. No.28273 of 2025

1.Kannammal
2.Rajathi
3.Rani

... Appellants

Vs.

1.S.Usharani
2.The Sub Registrar,
Tiruchengode SRO,
Tiruchengode, Namakkal District.

3.Kannagi
4.M.Vinoth

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 10.01.2025 in W.P.No.773 of 2025.

For Appellants : Mr.N.R.Elango,
Senior Counsel
for Mr.G.R.Deepak

For Respondents : Mr.R.T.Vishnu for R1
Mr.U.Baranidharan,
Special Government Pleader for R2



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JUDGMENT

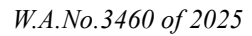
(Judgment of the Court was delivered by S.M.SUBRAMANIAM, J.)

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Under assail is writ order dated 10.01.2025 passed in W.P. No.773 of 2025.

2. Respondents 2, 3 and 4 in writ petition are the appellants before this Court. On 22.08.1984, father of appellants Mr.Subbaiya executed a settlement deed in favour of first respondent, who is none other than his granddaughter. During the relevant point of time, first respondent was a minor. Subsequently, she attained the age of majority. The said settlement deed came to be cancelled by the father of the appellants on 01.04.1999 unilaterally. The said cancellation deed dated 01.04.1999 is under challenge in the writ proceedings before writ Court. Since writ petition was allowed, the present intra-court appeal has been instituted.

3. Learned senior counsel appearing on behalf of the appellants would mainly contend that impugned final writ order has been passed at the admission stage and no opportunity was afforded to the appellants to putforth their case. Writ petition has been instituted after a long delay and therefore, writ petition ought to have been rejected on the ground of delay and laches. That apart, a civil suit for partition between the parties is pending and several





the transferor does not create, assign, limit or extinguish any right, title or interest in the property and is of no effect. Such a document does not create any encumbrance in the property already transferred. Hence, such a Deed of Cancellation cannot be accepted for registration.

(ii) Once title to the property is vested in the transferee by the sale of the property, it cannot be divested unto the transferor by execution and registration of a Deed of Cancellation even with the consent of the parties. The proper course would be to re-convey the property by a deed of conveyance by the transferee in favour of the transferor.

(iii) Where a transfer is effected by way of sale with the condition that title will pass on payment of consideration, and such intention is clear from the recital in the deed, then such instrument or sale can be cancelled by a Deed of Cancellation with the consent of both parties on the ground of non-payment of consideration. The reason is that in such a Sale Deed, admittedly, the title remained with the transferor.

(iv) In other case, a complete and absolute sale can be cancelled at the instance of the transferor only by taking recourse to the Civil Court by obtaining a decree of cancellation of Sale Deed on the ground inter alia of fraud or any other valid reasons.'

7. The said position has been reiterated by another Full Bench of this Court in the case of **Sasikala Vs. Revenue Divisional Officer** reported in **(2022) 7 MLJ 1** , wherein, it held as follows:-

'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.'*

8. In view of the ratio laid down by two Full Bench judgments (cited supra), unilateral cancellation of settlement deed, which is under challenge in the writ proceedings cannot be sustained. In view of the above reasons, present intra-court appeal stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

9. However, the appellants are at liberty to raise all the grounds in the pending suit for partition in O.S.No.500 of 2023 on the file of Subordinate Court, Namakkal and the civil Court shall adjudicate the issues independently and uninfluenced by the observations made in the writ order on facts.

[S.M.S., J.] [M.S.Q., J.]
13.11.2025

Index:Yes/No
Neutral Citation:Yes/No
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W.A.No.3460 of 2025

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

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To

1. The Sub Registrar,
Tiruchengode SRO,
Tiruchengode, Namakkal District.
- 2.The Subordinate Court,
Namakkal.

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