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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-01-2025

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THE HONOURABLE MR JUSTICE S. S. SUNDAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

WA NO. 3584 of 2024

K.Madhavan

..Appellant

Vs

1. The Inspector General Of Registration
Santhome High Road,

Chennai 028 and

2. The Sub Registrar,

Adyar, Chennai-600020.

3.N.Ranganadan

Respondents

Prayer : Writ Appeal is filed under Clause 15 of the letters patent to set aside the order of this Court dated 24.09.2024 made in W.P.No. 12571 of 2010 .

For Appellant : Mr. V.G. Suresh Kumar

For Respondents: Mr. P.Harish, GA – R1 & R2

Mr.T.Mohan

For M/s.Kailasam Associates - R3

ORDER



(Order of the Court was made by the Hon'ble S.S.Sundar J.)

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This appeal is directed against the order of the learned Single Judge dated 24.09.2024, dismissing the writ petition filed by the appellant in W.P.No. 12571 of 2010, filed for a declaration delcaring the registration of deed of cancellation dated 22.08.1986 duly registered as Document No. 4218 of 1996 executed by the 3rd respondent is invalid and for consequential reliefs.

Brief facts that are necessary for the disposal of this appeal are as follows:

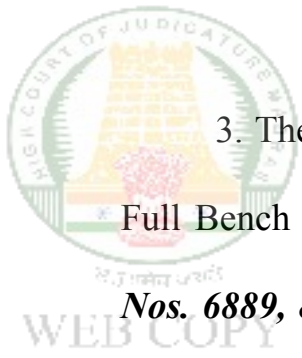
2.1 The 3rd respondent herein originally mortgaged his property, viz., house bearing No. 25/B, Ranjith Road, Adyar Village, Kotturpuram, Chennai, comprised in T.S. No. 7/2, Block No. 14. The total extent of the property mortgaged was 3 grounds and 1136 sq. ft. The mortgage was in favour of one D. Martin for a sum of rupees four lakhs in the year 1995. The 3rd respondent availed a further loan from the appellant on 24.11.1995 for the purpose of discharging the subsisting mortgage. Since the 3rd respondent was unable to repay the amount, he sold a portion of the mortgaged property to the said D. Martin in the year 1996.



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2.2 After executing the sale deed, it is stated that the 3rd respondent executed another document, namely a deed of cancellation, a few months after the sale deed was executed, in the year 1996. The unilateral cancellation of the sale deed was also registered as Doc. No. 4218 of 1996. Upon becoming aware of the unilateral cancellation in the year 1996, D. Martin filed a suit in O.S. No. 7434 of 2005, seeking a declaration that the unilateral cancellation of the sale deed as null and void. Subsequently, the plaintiff in the suit, D. Martin, settled the property in favour of the appellant. After Martin's death in the year 2009, the appellant filed an application to transpose himself as the plaintiff in O.S. No. 7434 of 2005. However, the trial court dismissed the said interlocutory application.

2.2 Aggrieved by the dismissal of his application, the appellant filed a Civil Revision Petition in C.R.P. No. 262 of 2010 before this Court. He also filed a writ petition challenging the unilateral cancellation of the sale deed dated 22.08.1996. Both the writ petition and the Civil Revision Petition were heard together and dismissed, holding that the dispute regarding the subject properties was of a civil nature and that the remedy lay exclusively before the civil court, not the writ court. The petitioner was permitted to approach the civil court for appropriate relief. Aggrieved by the dismissal of the writ petition, the present writ appeal has been filed.



3. The learned counsel for the appellant relied on the judgment of the Hon'ble Full Bench of this Court in *Sasikala v. Revenue Divisional Officer in W.P. (MD) Nos. 6889, 8330, 13297 of 2020, 11674 of 2015, and W.A. (MD) No. 800 of 2022, dated 02.09.2022 [reported in 2022 (7) MLJ 01]*. On the other hand, the learned counsel for the contesting respondents relied on the decision of the Hon'ble Supreme Court in *Sathya Pal Anand reported in (2016) 10 SCC 767*, where, in similar circumstances, the Court, taking note of the pendency of the civil suit, relegated the parties to resolve the dispute by approaching the civil court and held that a writ petition is not maintainable. It is also relevant to state that the Full Bench of this Court considered few other judgments of Hon'ble Supreme Court distinguishing the judgment in *Satya Pal Anand's case* on major issues regarding the scope of power exercised by the Sub Registrar and the maintainability of writ petition.



4. The Full Bench of this Court in *Sasikala's* case, while declaring documents related to unilateral cancellation of sale deeds as void, distinguished the judgment of the Hon'ble Supreme Court in *Sathya Pal Anand* case by referring to Section 34-A of the Registration Act, introduced through an amendment on 14.04.2001. By virtue of the said amendment, any instrument relating to the cancellation of a sale deed, without the consent of the person claiming under the sale document, cannot be entertained by the registering authority. In other words, there is a statutory prohibition against registration of documents vouching unilateral cancellations.

5 This case is peculiar in the sense that the suit filed by D. Martin in O.S. No. 7434 of 2005 is still pending, and the appellant, who is the only person competent to prosecute the suit, is unable to proceed because of the dismissal of his application to transpose himself as the plaintiff.

6. Taking note of the fact that the suit in O.S. No. 7434 of 2005 is still pending and that the civil court is competent to grant both declarations and consequential reliefs, this Court is of the view that the impugned order of the learned Single Juge is liable to be modified. Accordingly, the order of the learned Single Judge made in W.P. No. 12571 of 2010 dated 24.09.2024 is set aside and modified as follows:

- i. The appellant is permitted to file another application to transpose himself as the plaintiff to prosecute the suit in O.S. No. 7434 of 2005.



- ii. The 3rd respondent or anyone claiming under him shall not resist such an application.
- iii. The appellant shall be permitted to prosecute the suit in O.S. No. 7434 of 2005 as the plaintiff until its logical end .
- iv. The civil court is directed to dispose of the suit in O.S. No. 7434 of 2005 within a period of six months from the date of receipt of a copy of this order.
- v. It is open to both the appellant and the respondents to raise all their factual and legal contentions in the suit before the trial court. The trial court shall consider the same and pass orders uninfluenced by the observations.

(S.S.SUNDAR J.) (P.DHANABAL J.)
24-01-2025

Index : Yes/No
Internet : Yes
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To
1. The Inspector General Of Registration
Santhome High Road, Chennai 028

2. The Sub-registrar,
Adyar, Chennai 020

S. S. SUNDAR., J.
AND
P. DHANABAL., J.

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