



W.P.(MD)No.8256 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.01.2025**

CORAM:

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

W.P.(MD)No.8256 of 2024
and
W.M.P(MD)Nos.7457 & 7459 of 2024

M.Abdul Wahab

... Petitioner

/Vs./

1.The District Registrar,
Tirunelveli,
Tirunelveli District.

2.The Sub-Registrar,
Pettai,
Tirunelveli District.

3.Mrs.Beema John

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the registration of cancellation of settlement deed executed by the third respondent dated 11.07.2011 registered as document No.5088/11 on the file of the second respondent and quash the same as illegal.



W.P.(MD)No.8256 of 2024

WEB COPY

For Petitioner : Mr.R.J.Karthick
For R1 & R2 : Mr.S.P.Maharajan
Special Government Pleader
For R3 : No appearance

ORDER

This writ petition has been filed challenging the registration of cancellation of settlement deed dated 11.07.2011 vide document No. 5088/11 executed by the third respondent.

2. Heard the learned counsel on either side and perused the materials placed before this Court.

3. The property comprised in S.No.586/1B and 583/2B to an extent of 3 acres 81 cents situated at Kandiyaperi Village, Tirunelveli Taluk, Tirunelveli District originally belonged to one Dr.Mohammed Ali. After his demise, his legal heirs obtained the partition decree in O.S.No.7 of 2004 on the file of the Additional District Court, Tirunelveli. All the three legal heirs had devolved the said property and one of the share holder release her right by execution of release deed in favour of the third respondent, dated 11.06.2008 registered vide document No.833/2008.



W.P.(MD)No.8256 of 2024

WEB COPY

Thereafter, the third respondent had become absolute owner of the subject property and had executed the settlement deed in favour of her daughter dated 13.06.2011. In turn, the third respondent's daughter Syed Ali Fathima had executed the sale deed in favour of the petitioner dated 16.06.2011 and got registered vide document No.737/2011. After a period of three years, the person, who executed the release deed dated 11.06.2008 and her sister had unilaterally cancelled the release deed by executing the cancellation of release deed got registered vide document Nos.768/11 and 769/11, dated 21.06.2011. Thereafter, the third respondent had cancelled the settlement deed by way of cancellation of settlement deed dated 13.06.2011 vide registered document No. 4522/2011. Already the cancellation of release deed vide document Nos. 768/11 and 769/11 were challenged before this Court and quashed by this Court. Now the cancellation of settlement deed is under challenge.

4. Though notice served on the third respondent, no one is present today at the time of hearing either by person or through pleader.



W.P.(MD)No.8256 of 2024

WEB COPY

5. The issue of unilateral cancellation of deed of conveyance has been dealt with in the case of ***Sasikala vs. The Revenue Divisional Officer and others in W.P.(MD)No.6889 of 2020 etc., batch, dated 02.09.2022*** and the relevant portion of the order is extracted hereunder:-

"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.-vsGovernment of Andhra Pradesh & Ors., reported in (2010) 15 SCC 207 and 80/85 <https://www.mhc.tn.gov.in/judis> W.P.(MD).Nos. 6889,8330,13297 of 2020,11674 of 2015 and W.A(MD)No.800 of 2022 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's 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



W.P.(MD)No.8256 of 2024

WEB COPY

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 81/85

https://www.mhc.tn.gov.in/judis W.P.(MD).Nos. 6889,8330,13297 of 2020,11674 of 2015 and W.A(MD)No.800 of 2022 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. (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."



W.P.(MD)No.8256 of 2024

WEB COPY

6. The above case is applicable to the case on hand since the third respondent without any notice and without any knowledge of the petitioner's vendor had executed the cancellation of settlement deed vide document dated 11.07.2011, therefore it cannot be sustained and it is liable to be quashed. Accordingly, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

28.01.2025

Index : Yes / No

NCC : Yes / No

am

To

1.The District Registrar,
Tirunelveli,
Tirunelveli District.

2.The Sub-Registrar,
Pettai,
Tirunelveli District.



WEB COPY



W.P.(MD)No.8256 of 2024

G.K.ILANTHIRAIYAN, J.

am

Order made in
W.P.(MD)No.8256 of 2024

Dated:
28.01.2025