



W.P.(MD)No.11810 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.01.2025**

CORAM:

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

W.P.(MD)No.11810 of 2024

V.Krishnasamy

... Petitioner

/Vs./

1. The Sub Registrar,
Theni Sub Registrar Office,
Theni – 625 531.

2.M.Thenmozhi
3.V.Ambarasan
4.V.Selvaraj
5.Selvi
6.V.Sumathi
7.V.Narayanasamy

... Respondents

(R2 to R7 are impleaded vide order of this Court dated 18.12.2024 in WMP(MD)No.11540 of 2024.)

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the impugned cancellation of release deed dated 09.12.2010 executed by the Petitioner's Mother V.Bama and presented and registered by the respondent as Document Number 12274/2010 cancelling the release Deed dated 29.01.2009 and quash the same.



W.P.(MD)No.11810 of 2024

For Petitioner : Mr.M.Jayakumar
For Respondents : Mr.S.P.Maharajan (R1)
Special Government Pleader
No appearance (R2 to R7)

ORDER

This writ petition has been filed challenging the unilateral cancellation of the release deed dated 09.12.2010 vide Document No. 12274 of 2010 thereby cancelled the release deed dated 29.01.2009.

2. Though notice is served on the legal heirs of the petitioner's deceased mother, ie., the respondents 2 to 7 herein and their names have also been printed in the cause list, no one appeared before this Court either by person or through Advocate. Heard the learned counsel on either side and perused the materials placed before this Court.

3. The properties comprised in petition mentioned survey numbers are owned by the petitioner's father, namely, Veerasamy Naidu. After his demise, his legal heirs derived title over the subject properties, in which the petitioner's mother, namely, V. Bama, had 1/8th share out of the total



W.P.(MD)No.11810 of 2024

properties. After receipt of a sum of Rs.1,22,300/- from the petitioner, she had executed the release deed dated 29.01.2009 registered vide Document No. 484 of 2009. Thereafter, she had unilaterally executed the cancellation of the release deed registered vide Document No.12274 of 2010 dated 09.12.2010, without any notice to the petitioner and without having added the petitioner as a party to the said deed. Subsequently, she died on 14.03.2016. Now only, the petitioner came to understand that the release deed dated 29.01.2009 was unilaterally cancelled by his mother. After cancellation of the release deed, his mother had also executed a sale deed in respect of her 1/8th share in favour of third parties. However, the third parties did not take any possession of the subject property, since 1/8th share of his mother was already acquired by the National Highways to lay the road and the said road has also been laid and now, it is pending before the Hon'ble Supreme Court of India with respect to enhancement of compensation for the said land.

4. The learned Special Government Pleader appearing for the first respondent submitted that now, the third party interest is created over the subject property and further, the petitioner has challenged the unilateral



W.P.(MD)No.11810 of 2024

cancellation of the release deed after a period of 14 years. Therefore, this writ petition is liable to be dismissed on the sole ground of laches.

5. Admittedly, the petitioner was not noticed and the petitioner was not a party to the cancellation of the release deed executed by his mother. It was unilaterally cancelled by way of cancellation of the release deed vide Document No.12274 of 2010. Though the third party interest is created over the subject property, the said land was acquired by the National Highways to lay the road, even before execution of the sale deed. Therefore, no possession was handed over to the third party, who purchased the subject property.

6. The issue of unilateral cancellation of any deed has been dealt with by the Hon'ble Full Bench of this Court, in the case of ***Latif Estate Line India Ltd. Vs. Hadeeja Ammal*** reported in ***2011 (2) CTC 1*** holding that the unilateral cancellation of any deed is void and illegal.

7. Further, the writ petition is also very much maintainable challenging the unilateral cancellation of the deed, since there are no



W.P.(MD)No.11810 of 2024

disputed questions of fact. In view of the same, the unilateral cancellation of the release deed dated 09.12.2010 executed by the petitioner's mother vide Document No.12274 of 2010 is illegal and declared as null and void. This writ petition is accordingly allowed. No costs.

22.01.2025

Index : Yes / No
NCC : Yes / No
Sm

TO:-

1. The Sub Registrar,
Theni Sub Registrar Office,
Theni – 625 531.



WEB COPY



W.P.(MD)No.11810 of 2024

G.K.ILANTHIRAIYAN, J.

Sm

Order made in
W.P.(MD)No.11810 of 2024

Dated:
22.01.2025