



W.P (MD).No.21792 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2025

CORAM

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

W.P (MD).No.21792 of 2024

Abdul Rafiq

... Petitioner

Vs

1.The District Registrar,
O/o.The District Registrar,
Thanjavur,
Thanjavur District.

2.The Sub Registrar,
O/o.The Sub Registrar Office,
Karuthattangudi,
Thanjavur District.

3.M.G.Mahaboob Hussain

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to declare the partition deed of cancellation dated 13.01.2006 executed by the third respondent and registered on the file of the second respondent as document No.94 of 2006 as null and void within the period that may be stipulated by this Court.

For Petitioner	: Mr.C.Venkatesh Kumar for M/s.Ajmal Associates
For R1 & R2	: Mr.S.P.Maharajan Special Government Pleader
For R3	: Mr.D.Nallathambi



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ORDER

This writ petition has been filed challenging the unilateral cancellation of partition deed dated 13.01.2006 registered vide document No.94 of 2006.

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

3. The property, which was subjected in the partition deed registered dated 06.12.1996, was purchased jointly in the name of the petitioner's mother from the income of all the sons. Therefore, the said properties were partitioned by the registered partition deed dated 06.12.1996. As per the partition deed, no properties have been allotted to the petitioner's sister since the properties have been purchased from the income of the sons. Accordingly, 'A' schedule property was allotted in favour of the petitioner and 'B' schedule property was allotted in favour of the third respondent. While enjoying the said property, his mother and third respondent were interfering with the peaceful possession and enjoyment of the subject property. Therefore, the petitioner was constrained to file a suit for bare injunction in O.S.No.341 of 2007 on the file of the District Munsif Court, Thanjavur against the petitioner's mother and the third



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respondent and the said suit was decreed in favour of the petitioner on 20.02.2019. Even at the time of filing the written statement in the said suit, the third respondent had nowhere mentioned about the cancellation of partition deed vide document No.94 of 2006 dated 13.01.2006. In fact, thereafter, the petitioner also filed another suit in O.S.No.462 of 2010 on the file of the Additional District Munsif Court, Thanjavur as against the Thanjavur Corporation for the relief of bare injunction restraining the authorities concerned from changing the house tax and water tax to others name without consent from the petitioner. The suit was also decreed in favour of the petitioner by the judgment and decree dated 12.08.2022. Admittedly, the third respondent and his mother had executed the unilateral cancellation of partition dated 06.12.1996 and the same was cancelled on 13.01.2006 without giving any notice to the petitioner. The unilateral cancellation of deed was already dealt with by the Hon'ble Full Bench of this Court in W.P(MD)Nos.6889 of 2020 etc., batch held as follows:-

“39.No transfer can be made in so far as it is opposed to the nature of interest affected thereby or for an unlawful object as per Section 6 of Transfer of Property Act. Only a person competent to contract and has a transferable right is competent to transfer such property. “Sale” is a transfer of ownership in exchange for a price paid or promised. In case of immovable



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property of the value of one hundred rupees and more, it can be made only by a registered instrument. Once a transfer is made by a registered instrument all the interest which the transferor is then capable of passing in the property is passed on forthwith to the transferee. After a deed of conveyance, the transferor has no transferable interest. The Transfer of Property Act does not permit the transferor to recall an instrument so as to divest the transferee's title. The Registration Act does not deal with unilateral cancellation of a sale deed . The Registration Act does not confer any power to registrar to cancel a document which had been registered as per the Act. By registration a legal sanctity is given to the conveyance. When the object of Registration is to ensure public to rely with confidence upon the statements contained in the registers maintained in the Registrar's office as a full and complete account of all transaction affecting title, permitting registrars to accept unilateral cancellation of sale deed or any other deed of conveyance (except revocation of gift as may be permitted in accordance with Section 126 of Transfer of Property Act or a Will) will be opposed to the object and purpose of Registration Act itself and contrary to the provision of Transfer of property Act. A person, after conveying all his right by a deed of conveyance, has no right to deal with the property again affecting, limiting or extinguishing the right or title of transfer for no consideration. When such deed of cancellation is presented, the deed of conveyance which had been registered earlier is referred to. It is not as if the registrar needs to prove further to find out whether the person executing the



document has title. When a deed of cancellation is presented, the incompetency to transfer is admitted by the executant. The intention of the person presenting a document cancelling the registered document is fraudulent and the fraud is accomplished, when such document is registered. Registering Officer has power to refuse to register a document. A person may file an appeal before Registrar against an order refusing to register, except on the ground of denial of execution. Similarly, if the Sub-Registrar refuses to register on the ground of denial of execution, a person claiming under the document can apply to the Registrar to establish his right to have the document registered. After accepting the document for registration and registering the document, the Registrar has no power under the Registration Act to cancel the Registration. If a document cancelling the registered deed is accepted for registration by the registering authority, he intends to do something which he is not authorised under the Act and it is beyond his power under the Registration Act.

40.Hence, we have no hesitation to answer the issue by holding that the Sub-Registrar namely, the Registering Authority has no power to accept the deed of cancellation to nullify the deed of conveyance made earlier.”

4. Therefore, thus it is clear that the unilateral cancellation of deed without notice to the petitioner and without consent of the party is clear violation of principles of natural justice and as such, the unilateral cancellation of deed cannot be sustained and it is liable to be quashed.



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5. Accordingly, the writ petition is allowed and the cancellation of partition deed dated 13.01.2006 is declared as null and void. No costs. However, the third respondent is at liberty to approach the Civil Court for appropriate relief.

Internet : Yes
Index : Yes/No
Speaking/Non Speaking order
am

24.01.2025

To

1.The District Registrar,
Thanjavur,
Thanjavur District.

2.The Sub Registrar,
Karuthattangudi,
Thanjavur District.



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G.K.ILANTHIRAIYAN, J.

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