
(2014) 04 MAD CK 0278

In the Madras High Court

Case No : W.P. Nos. 30688 and 30697 of 2012 and M.P. Nos. 1 and 1 of 2012

D.V. Loganathan

APPELLANT

Vs

Sub-Registrar and Another

RESPONDENT

Date of Decision : 07-04-2014

Acts Referred:

Citation : (2014) 3 CTC 113 : (2014) 3 MLJ 666

Hon'ble Judges : S. Rajendran, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S. Rajeswaran, J.—Since the issues raised in both the Writ Petitions are identical, with the consent of the learned counsel appearing on either side, the Writ Petitions are taken up for disposal. The case in common in both the Writ Petitions is that in the Settlement Deeds the second respondent in both the cases is the absolute owner of the aforesaid properties, which were settled in the name of the petitioner's son by way of deed of settlement dated 7.5.2008 and 29.06.2009 registered as document Nos. 1934 of 2009 and 2346 of 2009. In view of the above settlement deeds, the second respondent relinquished and transferred all his right over the property covered under the settlement deeds in the name of the petitioner. The possession and the original sale deeds were also handed over to the writ petitioner on the said date itself. Thus, the settlement deeds were acted upon and the petitioner has taken possession of the property. Consequently, the Revenue Records have also been transferred in the name of the petitioner and pattas have also been issued in his name. Thereafter, the property tax for the said properties are being paid by the petitioner as absolute owner of the said properties. Therefore, the second respondent has got no right whatsoever over the scheduled properties in view of the above facts.

2. Whiles, unilaterally without the knowledge of the petitioner, the second respondent appears to have created equivalent deeds of cancellation dated 26.09.2012 and 5.10.2012, respectively cancelling the settlement deeds dated

07.05.2008 and 29.6.2009 and when the same were presented to the first respondent for registration, the first respondent also registered the same stating that the settlement deeds have been cancelled. Since the cancellation done by the first respondent is contrary to law, the petitioner has come forward with the above Writ Petitions with the aforesaid prayers.

3. I have heard the submissions made by the learned counsel appearing on either side and gone through the materials available on record.

4. At the outset the learned counsel appearing for the petitioner would submit that the unilateral cancellation of the settlement deeds without notice to the petitioner by the first respondent Sub-Registrar is contrary to the provisions of the Transfer of Property Act and also the Judgment rendered by this Court in W.P. No. 17983 of 2011 on 1.3.2012, wherein this Court held that when a deed is irrevocable, unilaterally cancelling the said deed without notice to the parties concerned is contrary to law and cannot be sustained.

5. In fact the registration of cancellation of the settlement deed is against the public policy as it was not open to the Sub-Registrar to register the cancellation of the deed, when the settlement deed is unconditional and irrevocable. If at all the party who has executed the document is aggrieved by the settlement deed, he could have very well approached the Civil Court to set it aside, but certainly could not unilaterally cancel it, by getting the deed of cancellation registered with the Sub-Registrar. The cancellation deed and its registration therefore being without jurisdiction is liable to be set aside. In fact in the above unreported judgment dated 01.03.2012 made in W.P. No. 17983 of 2011 (cited supra), the learned Single Judge of this Court has held as follows: 10. On consideration, I find that this writ petition deserves to succeed, as per Section 156 of Transfer of Property Act, except for the condition stipulated therein, the Gift deed is irrevocable. It is not disputed that the none of the condition entitled revoking of Gift Deed exists in this case, as the Gift Deed was irrevocable and unconditional, it was not open to respondent No. 2 to register the cancellation deed being opposed to the public policy. The impugned order of registration, therefore, cannot be sustained in law, in view of the decision of the Hon''ble Full Bench of this Court and decision of the Hon''ble Kerala High Court in *Latif Estate Line India Limited v. Hadeeja Ammal*.

For the reasons stated above the registration of impugned deed of cancellation on therefore cannot be sustained in law being against public policy.

The writ petition is accordingly allowed and the deed of cancellation is ordered to be quashed. However, it is made clear that it is open to the respondents to challenge the settlement deed in accordance with law in the Civil Court, if so advised. No costs. Consequently, connected miscellaneous petitions are closed.