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W.A.No.2200 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.07.2024**

CORAM:

THE HONOURABLE MR.**JUSTICE R.SUBRAMANIAN**

AND

THE HONOURABLE MR.**JUSTICE R.SAKTHIVEL**

Writ Appeal No.2200 of 2023
and CMP No.19058 of 2023

1. P. Rangasamy

2. P. Velusamy

3. P. Maruthachalam

... Appellants

Vs.

1. Amuthavalli

2. Manonmani

3. H.Jayakumar

4. The Sub-Registrar,
Office of the Sub-Registrar,
Gandhipuram, Coimbatore.

5. The Executive Officer,
Kalapatti Panchayat,
Coimbatore.

6. The Executive Engineer,
Corporation of Coimbatore.

.. Respondents



W.A.No.2200 of 2023

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 04.07.2023 made in W.P. No.17390 of 2017.

For Appellants : Mr.P.Saravana Sowmiyan

For Respondents : Mr.T.S.Baskaran, for R1 to R3

Mr.L.S.M. Hasan Faizal,
Additional Government Pleader, for R4

No Appearance – RR 5 & 6

J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The respondents 5 to 7 in WP No. 17390 of 2017 are on Appeal

The prayer in the Writ Petition reads as follows:

*“to issue a Writ of Certiorarified
Mandamus, to call for the entire records in
connection with the Cancellation Deed dated
21.09.2007 executed by the respondents 4 to 7 and
registered by the first respondent registered as
Document No.5848 of 2007 and quash the same and*



consequently restrain the respondents from in any manner dealing with the said property in S.F.No.246/1 of Kalapatti Village, Gandhipuram Sub Registration District and Coimbatore Registration District.”

2. It was the claim of the petitioners in the Writ Petition that the unilateral cancellation of the Gift Deed dated 23.12.1997 by way of an instrument of cancellation dated 21.09.2007 is invalid and to quash the said Deed of cancellation. The Gift Deed dated 23.12.1997 was executed by the appellant in favour of the Kalapatti Panchayat on the expectation that the Lay Out Plan submitted by them would be sanctioned. Since the approval was not granted, the appellants thought it fit to cancel the said Gift Deed. The respondents 1 to 3 who claim to be the purchasers of the remaining land from the power agent of the appellants have filed the Writ Petition seeking the prayer as aforesaid.

3. This was resisted by the appellants contending that once the approval was not granted it was open to them to cancel the Gift Deed. It was also contended that the Sale Deed in favour of respondents 1 to 3 itself was



in question before a Civil Court. Therefore, they have no *locus standi* to file a Writ Petition. The Writ Court over ruled the objection and held that in view of the pronouncement of the Full Bench of this Court in ***Latif Estate Line India Ltd. vs. Hadeeja Amma***, reported in ***(2011) 2 CTC 1***, unilateral cancellation is invalid. On the said conclusion, the Writ Court allowed the Writ Petition and directed removal of the entry relating to the cancellation from the Encumbrance Certificate. Aggrieved the appellants are before us.

4. We have heard Mr. P. Saravana Sowmiyan, learned counsel appearing for the appellants, Mr.T.S.Baskaran, learned counsel appearing for the respondents 1 to 3 and Mr.L.S.M.Hasan Faizal, learned Additional Government Pleader, appearing for the fourth respondent. Respondents 5 and 6 despite service are not appearing either in person or through counsel duly instructed.

5. Mr. P. Saravana Sowmiyan, learned counsel appearing for the appellants would vehemently contend that it was open to the appellants to cancel the Gift Deed, inasmuch as the approval for the Lay Out was not granted. He would also point out that the very Sale Deed in favour of the respondents 1 to 3 is under challenge in a Civil Suit and therefore, they have



no *locus standi* to file the Writ Petition

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6. Contending contra Mr.T.S.Baskaran, learned counsel appearing for the respondents 1 to 3 would submit that in the event they succeed in the suit, in which the validity of the Sale Deed in their favour is in question and the suit filed by the appellants seeking cancellation of the Gift Deed is dismissed also, the entry regarding cancellation will subsist. Therefore, according to him, the Writ Court was right in allowing the Writ Petition and declaring that the cancellation is invalid. He would also submit that the Writ Court has left the parties to be governed by the decisions made in the Civil Court.

7. Mr.L.S.M.Hasan Faizal, learned Additional Government Pleader, appearing for the fourth respondent would submit that what has been done by the Writ Court is in accordance with the dictum of the Full Bench of this Court and hence no interference is required at our hands.

8. We have considered the rival submission.

9. It is settled law that the Gift Deed once executed cannot be



unilaterally cancelled. There can be a bilateral cancellation by both the parties to the document or it can be set aside by a competent Civil Court. Admittedly, the appellants have already approached the Civil Court seeking cancellation of the Gift Deed and the suit is still pending. The respondents 1 to 3 have also approached the Civil Court seeking declaration of their title. The appellants have also filed a suit seeking a declaration that the Sale Deed in favour of respondents 1 to 3 is invalid. Both the suits are pending.

10. These are issues which can be resolved effectively by a competent Civil Court than by a Court sitting under Article 226 of the Constitution of India. In any event since the cancellation of the Gift Deed is in violation of the dictum of the Full Bench of this Court, we cannot fault the Writ Court for having allowed the Writ Petition. All that we need to add is that all the rights of the party either under the Gift Deed in favour of the Panchayat or the Sale Deeds executed in favour of the respondents 1 to 3 will be put in issue before the Competent Civil Court where the suits are pending and the decision of the Civil Court will be binding on the parties. The Civil Court while deciding these issues will not be influenced by any of the observations made either in the order impugned in the Writ Petition or by us in this order.



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11. The Appeal is **disposed of** with the above observations. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(R.SUBRAMANIAN, J.) (R.SAKTHIVEL, J.)
09.07.2024

jv

Index: No

Internet: Yes

Speaking order

Neutral Citation: No

To

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Office of the Sub-Registrar,
Gandhipuram, Coimbatore.
2. The Executive Officer,
Kalapatti Panchayat,



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Coimbatore.

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(jv)

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