



WEB COPY

W.A.No.2630 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.A.No.2630 of 2023

1.S.Govarthanan

2.S.Vijaya

...Appellants

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
Raja Annamalai Puram, Chennai – 600 028.

2.The Sub- Registrar,
No.21, Grand Southern Trunk Road,
Jaibeemnagar, Guduvancheri,
Tamil Nadu – 603 202.

3.M.Gopal

[R3 impleaded vide order dated 15.12.2023
made in CMP.No.24505 of 2023]

...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside
the impugned order dated 06.07.2023 made in W.P.No.19756 of 2023.

For Appellants : Mr.Hari Radhakrishnan

For Respondents 1 and 2 : Mr.B.Vijay,
Additional Government Pleader

For 3rd Respondent : Mr.S.Ravichandran



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J U D G M E N T

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

Challenge in this appeal is to the order of the learned Single Judge dismissing the writ petition filed by the petitioners seeking the following relief:-

“Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, declaring the registration of the Deed of Cancellation as Document No.2772 of 1995 dated 27.10.1995 by the 2nd respondent as null and void.”

2. It is the contention of the petitioner that despite the fact that a Full Bench of this Court in ***Latif Estate Line India Ltd., Vs. Hadeeja Ammal and others*** reported in ***2011 (2) CTC 1*** had held that unilateral cancellation of non-testamentary instrument is invalid, the Sub-Registrars who are invested with the duty of registering the instruments register such cancellation deeds indiscriminately paving way for those documents being reflected in the encumbrance certificates, thus causing difficulty for the owners to deal with the property.



3. The learned Single Judge has dismissed the writ petition on the ground that they have to approach the civil Court, since there is a delay. While sustaining the dismissal of the writ petition, we do not think that the direction to approach the civil Court is necessitated. The law declared by this Court in *Latif Estate Line India Ltd., Vs. Hadeeja Ammal and others (supra)* will have retrospective operation, since the judgment has not been made specifically prospective. Therefore, any unilateral cancellation of the non-testamentary instrument is clearly invalid. Merely because it appears in the encumbrance certificate, it does not mean that the title of the transferee under the cancelled instrument would be affected. We make it clear that the title of the appellants will not be affected because of the cancellation.

4. The writ appeal is disposed of with the above observations. No costs.

(R.S.M., J.) (R.S.V., J.)
13.06.2024

dsa
Index : No
Internet : Yes
Neutral Citation : No
Speaking order



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To:-

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R.SUBRAMANIAN, J.
and
R.SAKTHIVEL, J.

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