



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3558]

WEDNESDAY, THE EIGHTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA

WRIT PETITION NO: 8131/2024

Between:

1. UNION BANK OF INDIA (ERSTWHILE ANDHRA BANK), ASSET
RECOVERY BRANCH, VIJAYAWADA 4 TH FLOOR, ANDHRA BANK
BUILDING, R.R. APPARAO STREET, VIJAYAWADA, ANDHRA
PRADESH - 520001 REPRESENTED BY ITS AUTHORIZED
OFFICER. EMAIL ID
ARB.VIJAYAWADA@UNIONBANKOFINDIA.BANK

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS
PRINCIPAL SECRETARY REVENUE DEPARTMENT SECRETARIAT
VELAGAPUDI, AMARAVATHI, ANDHRA PRADESH
2. DIRECTOR AND INSPECTOR GENERAL OF REGISTRATION AND
STAMPS, D. NO. 5/59, R.K. SPRING VALLEY APARTMENTS,
MANDAL, EDUPUGALLU, KANKIPADU, KRISHNA DISTRICT,
ANDHRA PRADESH -521151.
3. THE SUB REGISTRAR OF ASSURANCES, KORATIPADU, GUNTUR
DISTRICT ANDHRA PRADESH 522007
4. SURYADEVARA ABHAY PRADHAMBHA, W/O S. VENKATA KRISHNA
MUTHY R/O D. NO. 1-2-57, 1 ST LANE, 7 TH CROSS ROAD, JKC

NAGAR, GUNTUR CITY, GUNTUR DISTRICT

- 5.SURYADEVARA NARENDRA KUMAR, S/O S. VENKATA KRISHNA MURTHY R/O D. NO. 22B-2-8, AMBICA STREET, POWER PETA, ELURU, ELURU MANDAL, WEST GODAVARI DISTRICT
- 6.SURYADEVARA NARMADA, W/O SURYADEVARA NARENDRA KUMAR, R/O D. NO. 22B-2-8, AMBICA STREET, POWER PETA, ELURU, ELURU MANDAL, WEST GODAVARI DISTRICT
- 7.SURYADEVARA CHANDAN KUMAR, S/O SURYADEVARA NARENDRA KUMAR, R/O D. NO. 22B-2-8, AMBICA STREET, POWER PETA, ELURU, ELURU MANDAL, WEST GODAVARI DISTRICT
- 8.AVIMENI SOMESHWAR RAO, S/O AVIMENI VENKATADRI R/O D. NO. 22B-2-8, AMBICA STREET, POWER PETA, ELURU, ELURU MANDAL, WEST GODAVARI DISTRICT
- 9.M/S SRI ADITYA CONSTRUCTIONS, REPRESENTED BY ITS MANAGING PARTNER D. BHUPAL REDDY OFFICE AT 11-78/1, ANKIREDDYPALEM SIVAM, MAIN ROAD, CHALLAVARIPALEM, GUNTUR - 522 005

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased topleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the inaction and refusal on the part of the Respondent No. 3 in refusing to Register the Sale Certificate being issued by the Petitioner in favour of the auction purchaser (Respondent No. 9 herein) under SARFAESI Act in respect of property bearing Old Door No. 1-2-67/A, New Door No. 1-2-65, Old Assessment No. 896-01, New Assessment No. 1021171961, admeasuring 550 Square Yards , 4 th lane, SVN Colony, D. No. 240/9, Koretipadu Village, Guntur District and entertaining and registering unilateral Gift Revocation deed No. 4088/2020, dt. 09.12.2020 executed by Respondent No. 5 by cancelling Registered Gift deed No. 8620/2001, dt. 27.10.2001 and subsequently registering gift deed No. 1047/2021, dt. 25.01.2021 executed by Respondent No. 5 in favour of Respondent No. 6 and 7 and Registered GPA No. 1611/2021 , dt. 12.02.2021 as arbitrary,

illegal, capricious and violative of principles of natural justice and under Section 48 and 126 of Transfer of Property Act , Rule 26 (i) (k) (i) of A.P. Registration Rules and consequently cancel the execution of Revocation deed No. 4088/2020, dt. 09.12.2020 , gift deed No. 1047/2021, dt. 25.01.2021 and GPA No. 1611/2021 , dt. 12.02.2021 and direct the Respondent No.3 to register the Sale Certificate being executed by the Petitioner Bank under SARFAESI Act in favour of Respondent No. 9 and pass

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct Respondent No. 3 to register the Sale Certificate being issued by the Petitioner in favour of the auction purchaser in respect of property bearing Old Door No. 1-2-67/A, New Door No. 1-2-65, Old Assessment No. 896-01, New Assessment No. 1021171961, admeasuring 550 Square Yards , 4 th lane, SVN Colony, D. No. 240/9, Koretipadu Village, Guntur District and pass

IA NO: 2 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to order for service of notice on Respondent No. 5 to 7 by substituted service by way of paper publication in any local news paper and pass

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant leave to the petitioner to file Counter affidavit, in W.P. No. 8131 of 2024, in the interest of Justice and to pass

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant Leave to file counter affidavit in W.P.8131 of 2024 in the interest of Justice and to pass

Counsel for the Petitioner:

1.V DYUMANI

Counsel for the Respondent(S):

1.GP FOR REGISTRATION AND STAMPS (AP)

2.V SANTHISREE

3.V K NAIDU

4.T B L MURTHY

The Court made the following:

ORDER: *(Per Hon'ble Sri Justice Cheekati Manavendranath Roy)*

This Writ Petition is filed by the petitioner–Union Bank of India, seeking declaration that the refusal on the part of the respondent No.3-Sub-Registrar of Assurances, Koretipadu, Guntur, to register the Sale Certificate submitted by the petitioner issued in favour of the auction purchaser, who is the respondent No.9 herein, as illegal, and for consequential relief of cancellation of the registered unilateral Gift Revocation Deed executed by the respondent No.5 in favour of respondent No.4 during the subsistence of the mortgage over the secured asset in favour of the petitioner-Bank.

2. Heard Smt.Dyumani, learned Standing Counsel for the petitioner-Union Bank of India, learned Assistant Government Pleader for Revenue for respondent Nos.1 to 3, Mr. D.Nava Anil Kiran, learned counsel representing Mr.T.B.L.Murthy, learned counsel for respondent No.4, Mr. V.K.Naidu, learned counsel for respondent Nos.6 to 8, and Smt. V.Santhi Sree, learned counsel for respondent No.9.

3. Despite service of notice by way of substituted service through paper publication, none appeared on behalf of respondent No.5.

4. The respondent No.4 is a co-borrower. She along with the principal borrower availed loan from the petitioner-Bank. The respondent No.4 has mortgaged the subject property in favour of the petitioner-bank as a

security for repayment of the loan amount. As the principal borrower and the respondent No.4 committed default in repayment of the loan amount, the petitioner-Bank has initiated measures under Securitization And Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "SARFAESI Act"),and sold away the secured asset in the public auction, after complying with the procedure prescribed under law. The respondent No.9 is the auction purchaser who purchased the said property in the public auction. Respondent No.9 has paid entire sale consideration and Sale Certificate was issued in respect of the secured asset by the petitioner-Bank in favour of the respondent No.9. Thereafter, the petitioner-Bank has presented the same before the respondent No.3-Sub-Registrar Assurances for registration of the Sale Certificate for registration. The respondent No.3-Sub-Registrar refused to register the Sale Certificate on the ground that there are multiple registered transactions relating to the subject property, which is a secured asset.

5. As the original registered Gift Deed, which was executed by the 5threspondent, who is the original owner of the said property, has executed a Gift Deed in favour of the 4th respondent and after she mortgaged the property in favour of the petitioner-Bank, he has initially cancelled said Gift Deed unilaterally by way of registered document and thereafter, executed another Gift Deed in favour of his wife and son, who are the respondent Nos.6 and 7.

Subsequently, respondent No.5 and respondent No.4 together executed a Revocation Deed in respect of the original registered Gift Deed. Therefore, in view of the aforesaid multiple registered transactions relating to the subject property, the respondent No.3-Sub-Registrar has refused to register the Sale Certificate presented by the petitioner-Bank. Aggrieved by the refusal on the part of the respondent No.3-Sub-Registrar to register the Sale Certificate presented by the petitioner-Bank, and questioning the legality of such action, the present Writ Petition has been filed by the petitioner-Bank.

6. Admittedly, respondent No.5 is the original owner of the subject property. He has executed a registered Gift Deed in favour of respondent No.4, who is his mother. By virtue of the said registered Gift Deed, respondent No.4 became absolute owner of the property. Thereafter, respondent No.4, being the absolute owner of the said property and a co-borrower along with the principal borrower, mortgaged the said property in favour of the petitioner-Bank as security for repayment of the loan. Consequently, the property became a secured asset in the hands of the secured creditor, i.e., the petitioner-Bank. While the said mortgage is subsisting, the respondent No.5 has unilaterally cancelled the said registered Gift Deed executed in favour of respondent No.4, who is his mother. As per the settled position of law, such unilateral cancellation of a registered Gift Deed is not valid. Thereafter, the respondent No.5 executed another registered Gift Deed in favour of his wife

and son, who are respondent Nos.6 and 7 herein. Subsequently, respondent Nos.4 and 5 together executed a registered Revocation Deed in respect of the original registered Gift Deed.

7. In view of the said registered Revocation Deed that was subsequently executed by respondent No.5 in respect of the mortgaged property, the respondent No.3-Sub-Registrar refused to register the Sale Certificate presented by the petitioner-Bank. The said refusal to register the Sale Certificate presented by the petitioner-Bank by the respondent No.3-Sub-Registrar, relating to secured asset, is not valid under law. Once the secured asset was sold in the public auction as per the measures initiated by the petitioner-Bank under the SARFAESI Act for realization of the loan amount, and the said property was purchased by the auction purchaser, the Sub-Registrar is under the legal obligation to register the Sale Certificate that is presented by the petitioner-Bank issued in favour of respondent No.9. The Sub-Registrar cannot refuse to register the Sale Certificate on the ground that multiple transactions have taken place subsequently in respect of the subject property. In fact, when once a property is under mortgage as a secured asset in favour of the petitioner-Bank, any subsequent transactions that took place in respect of the said property will not defeat the rights of the petitioner-Bank, being the secured creditor, to enforce the security interest and bring the property to sale for realization of the outstanding loan amount.

8. In fact, the unilateral cancellation of the Gift Deed by respondent No.5 is not valid in law as already noticed supra. Even the subsequent execution of a Revocation Deed by respondent Nos.4 and 5, who are the donee and donor respectively, when there is no right reserved by the donor, who is respondent No.5 in the original registered gift deed executed by him in favour of respondent No.4, to revoke the Gift Deed on any condition stipulated in the Gift Deed, the Gift Deed cannot be revoked subsequently. The said legal position is clear from Section 126 of the Transfer Property Act,1882.

9. The Hon'ble Apex Court also in the case of **N.Thajudeen vs. Tamil Nadu Khadi and Village Industries Board**¹ held that *when a gift deed executed by donor in favour of donee setting out the purpose of a gift with no right reserved for its revocation in any contingency, then fulfillment for the purpose of gift by donee, would make it a valid gift, rendering it irrevocable. It is further held that the gift, which is validly made, can only be suspended or revoked under certain contingencies, but ordinarily it cannot be revoked, and more particularly when no such right is reserved under gift deed.*

10. Therefore, in the instant case, admittedly there is no such right reserved by respondent No.5, the donor, in the registered Gift Deed executed

¹ (2024) 19 SCC 121

by him in favour of the donee, who is respondent No.4, to revoke the Gift Deed, in any contingency. Therefore, he cannot subsequently revoke the said Gift Deed. Once a valid registered Gift Deed was executed by respondent No.5 in favour of respondent No.4, respondent No.5 is divested of his right, title and interest in the subject property and respondent No.4 became the absolute owner of the same. When the subsequent cancellation of the Gift Deed unilaterally and subsequent revocation of the Gift Deed both by respondent Nos.4 & 5 is found to be not valid under law, the respondent No.4 being the donee continuous to be the owner of the said property. The Gift Deed executed by respondent No.5 in favour of respondent Nos.6 and 7 subsequently, is not valid in law, as on the date of its execution, respondent No.5 had no title over the said property.

11. Therefore, the Writ Petition is **allowed** declaring that the refusal on the part of the respondent No.3-Sub-Registrar to register the Sale Certificate presented by the petitioner-Bank issued in favour of respondent No.9, as illegal. So, the respondent No.3-Sub-Registrar of Assurances, Koretipadu, Guntur, is directed to forthwith register the Sale Certificate that is presented by the petitioner-Bank issued in favour of respondent No.9.

12. The other prayer of the writ petitioner-Bank to declare the said documents relating to cancellation of the Gift Deed and Revocation of Gift Deed, as illegal, cannot be ordered in this Writ Petition. The Writ Court cannot

order cancellation of the documents. It is suffice to hold that the documents are not valid in law, as discussed supra.

There shall be no order as to costs.

As a sequel, Interlocutory Applications pending, if any, shall stand closed.

JUSTICE CHEEKATI MANAVENDRANATH ROY

JUSTICE TUHIN KUMAR GEDELA

Date: 18.02.2026
RPD.

241

**THE HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY
THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA**

(ALLOWED)

WRIT PETITION NO.8131 OF 2024

Date : 18.02.2026.

RPD.