



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

[3206]

FRIDAY, THE FIFTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

WRIT PETITION NO: 10424/2017

Between:

1. PADAMATI VEERA VENKATA SIVA, NAGA VARA PRASADA RAO,
S/O LATE PADAMATA BHANU MURTHY, AGED ABOUT 28 YEARS,
RESIDING AT D. NO. 3-109, RAYAVARAM, GUDUR MANDAL,
MACHILIPATNAM KRISHNA DISTRICT

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL
SECRETARY, REVENUE DEPARTMENT, SECRETARIAT
BUILDINGS, VELAGAPUDI, GUNTUR DISTRICT.

2. COMMISSIONER AND INSPECTOR GENERAL OF STAMPS, &
REGISTRATION, 5-59, R.K. SPRING VALLEY APARTMENTS,
EDUPUGALLU, KANKIPADU MANDAL, A.P, VIJAYAWADA - 521151

3. THE DISTRICT COLLECTOR KRISHNA DISTRICT, MACHILIPATNAM.

4. THE DISTRICT REGISTRAR KRISHNA, MACHILIPATNAM.

5. THE MACHILIPATNAM MUNICIPALITY, REP. BY ITS MUNICIPAL
COMMISSIONER, MACHILIPATNAM, KRISHNA DISTRICT.

6. THE JOINT SUB REGISTRAR, KRISHNA DISTRICT,
MACHILIPATNAM.

7. THE TAHSILDAR MACHILIPATNAM, KRISHNA DISTRICT.

8. M JASWANTH RAO, S/O SRI M. GNANA PRAKASAM, AGED ABOUT

48 YEARS, GOVERNMENT SERVANT, MACHILIPATNAM

...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 to issue a writ, order of direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents herein in cancelling the registered sale deed dated 01.12.2016 executed in favour of the petitioner vide Doc. No. 7411 of 2016 of the Office of the Joint Sub Registrar, Machilipatnam, Krishna District vide the Cancellation deed dated 18.02.2017 of the Office of the Joint Sub Registrar, Machilipatnam vide Doc No. 974 of 2017 as arbitrary, illegal, capricious, high handed, violative of Articles 14, 21 and the guarantee under 300-A of the Constitution of India apart from being in violation of the statutory provisions of the Registration Act, the principles of natural justice and fair play. and consequently declare that the Cancellation deed dated 18.02.2017 of the Office of the Joint Sub Registrar, Machilipatnam vide Doc No. 974 of 2017 as illegal, null and void and further direct the respondents not to undertake any proposed mutations to be undertaken in furtherance of the said illegal Cancellation deed dated 18.02.2017 of the Office of the Joint Sub Registrar, Machilipatnam vide Doc No. 974 of 2017 and pass such other order or orders as may be deemed fit and proper in the circumstances of the case.

IA NO: 1 OF 2017(WVMP 3313 OF 2017)

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 vacate the interim orders in WPMP.No.12924/2017 in WP No. 10424/2017 dated. 24.03.2017 and dismiss the above writ petition

IA NO: 2 OF 2017(WPMP 12923 OF 2017)

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 the respondents not to interfere with peaceful physical possession and enjoyment of the property purchased by the petitioner registered sale deed dated 01.12.2016 executed in favour of the petitioner vide Doc. No. 7411 of 2016 of the Office of the Joint Sub Registrar, Machilipatnam, Krishna District in any manner whatsoever including dispossession of the petitioner from the said property pending disposal of the above writ petition and pass such other order or orders as may be deemed fit and proper in the circumstances of the case.

IA NO: 3 OF 2017(WPMP 12924 OF 2017)

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 the respondents not to undertake any proposed mutations to be undertaken in furtherance of the said illegal Cancellation deed dated 18.02.2017 of the Office of the Joint Sub Registrar, Machilipatnam vide Doc No. 974 of 2017 pending disposal of the above writ petition and pass such other order or orders as may be deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner:

- 1.Y SRINIVASA MURTHY

Counsel for the Respondent(S):

- 1.
- 2.GP FOR REVENUE (AP)
- 3.GP FOR REGISTRATION AND STAMPS (AP)

The Court made the following Order:

The petitioner herein had purchased Ac.0.50 cents of land, in Sy.No.177/5 of Machilipatnam Rural, situate within the Municipal Limits of Machilipatnam, Krishna District, by way of a registered deed of sale, dated 01.12.2016, registered as a document No.7411 of 2016, in the office of the Joint Sub-Registrar, Machilipatnam. The Municipal Commissioner, Machilipatnam, executed a deed of cancellation, dated 18.02.2017 and registered the same as document No.974 of 2017, in the office of the Joint Sub-Registrar, Machilipatnam. By virtue of this document, the sale deed registered as document No.7411 of 2016, in favour of the petitioner, was sought to be cancelled. The impugned deed of cancellation states that the said land is part of Ac.2.21 cents of land, which had been classified as a burial ground and the same cannot be sold or purchase. It is further stated, in the deed of cancellation, that the land is prohibited property under Section 22A (1)(A) of the Registration Act, 1908 and that the registration of such land is contrary to the 22(A)(1)(B) of the Registration Act, 1908.

2. Aggrieved by the execution and registration of this deed of cancellation, the petitioner has approached this Court by way of the present Writ Petition.

3. Sri Y. Srinivasa Murthy, learned Senior Counsel appearing for the petitioner, would contend that such a course of action is not available to the Municipal Commissioner, Machilipatnam. He would submit that there can be

no such unilateral cancellation of sale deeds without any notice to the petitioner. He would also submit that no such power is vested in the Municipal Commissioner, Machilipatnam, for cancelling the deeds of sale executed between the private parties.

4. Learned Government Pleader for Revenue, could not cite any provisions of law which empowers the Municipal Commissioner, Machilipatnam, to cancel such deeds of sale.

5. In the absence of any such power, it must be held that the deed of cancellation executed by the Municipal Commissioner, Machilipatnam, is devoid of jurisdiction and authority.

6. Accordingly, this Writ Petition is allowed setting aside the deed of cancellation, dated 18.02.2017. However, the present order is being passed solely on the ground of lack of authority and jurisdiction to the Municipal Commissioner, Machilipatnam and this order shall not be treated to have given any findings on the right and title of the property in favour of the petitioner or on the question of whether the property is a burial ground which could not have been alienated. There shall be no order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

HON'BLE SRI JUSTICE R.RAGHUNANDAN RAO

Writ Petition No.10424 of 2017

05-12-2025

BSM