



**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: 40002/2016

Between:

1. SMT. CH.G.V.S.K.MAHALAKSHMI D/O SRI. CH.SOMASUNDARA RAO,, OCC:HOUSEHOLD, R/O D.NO. 7-13-1, A.V. OUT GATE DOWN, CHINA WALTAIR, VISAKHAPATNAM, VISAKHAPATNAM DISTRICT.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH REP, BY ITS PRINCIPAL SECRETARY, REVENUE DEPARTMENT, SECRETARIAT, AMARAVATI, GUNTUR DISTRICT.
2. THE DISTRICT REGISTRAR VISAKHAPATNAM VISAKHAPATNAM DIST, -
3. JOINT SUBREGISTRAR 173 PENDURTHI VISAKHAPATNAM DIST, -
4. CHEMBOLU SOMASUNDARA RAO S/O SANYASI RAO, R/O DOOR NO. 1-10/2, PRASHANTHI NAGAR CHINMUSHIDIWADA, VISAKHAPATNAM, VISAKHAPATNAM DISTRICT.

...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 an appropriate Writ Order or declaring the action of the Joint Sub- Registrar-21, Pendurthi, Visakhapatnam District, in registering the Deed of Cancellation No. 6217/2015 dated 15-12-2015 executed by the fourth respondent unilaterally, as illegal, arbitrary and null and void

IA NO: 1 OF 2016(WPMP 49282 OF 2016)

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 suspend the Registration of the Cancellation Deed No. 6217/2015 dated 15-12-2015 executed by the 4th respondent, pending disposal of the above writ petition.

IA NO: 1 OF 2019

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 permit the Petitioner to bring on record the proposed respondents 5 and 6 viz, (1) Smt. Chembolu Lakshmi W/o . Late Somasundara Rao and (2) Chembolu Uma Maheswara Rao, S/o Late Somasundara Rao as the legal heirs of the deceased 4th respondent late. Chembolu Somasundara Rao and to pass

Counsel for the Petitioner:

1.D KRISHNA MURTHY

Counsel for the Respondent(S):

1.GP FOR ASSIGNMENT (AP)

2.GP FOR REVENUE (AP)

3.M KISHORE BABU

The Court made the following ORDER:

The 4th respondent herein, who is the father of the petitioner herein, had executed a deed of Gift, on 08.12.2008, which was registered as document No.3595/2008 before the Joint Sub Registrar, Pendurti, gifting a house site admeasuring 166 ½ square yards in Sy.No.166/3 of Chinamushidiwada Village, Visakhapatnam District. This gift was accepted by the petitioner and the petitioner claims that the possession has also been delivered to her.

2. The 4th respondent, thereafter executed and registered a deed of cancellation, dated 15.12.2015, in the office of the 3rd respondent – Joint Sub Registrar and the same was registered as document No.6217/2015. The petitioner being aggrieved by the deed of revocation has filed the present writ petition.

3. Smt.Vijayasanthi, learned counsel appearing for the 4th respondent representing the respondents 5 and 6, who are brought on record, on account of demise of the deceased 4th respondent, during the pendency of the writ petition, while reiterating the contentions raised by the Joint Sub Registrar in her counter-affidavit, would raise two grounds of objections. Firstly, the writ petition is not maintainable for cancellation of revocation deed and the only remedy available to the petitioner is to file a civil suit. Secondly, the provisions of Rule 26(i)(k), relied upon by the petitioner would not be applicable in the present case as the said provision relates only to the revocation of deeds of sale and would not apply to gift deeds.

4. Sri D.Krishna Murthy, learned counsel appearing for the petitioner relying upon the judgment of the Hon'ble Supreme Court in **Asset Reconstruction Company (India) Limited, vs. S.P.Velayutham and others**¹, would contend that a writ petition is maintainable in the present case. The learned counsel, relying upon the judgment of a Division Bench of the erstwhile High Court of Judicature at Hyderabad, in case of **Gaddam laxmaiah and others vs. Commissioner and Inspector General, Registration and Stamps, Hyderabad and others**² and the judgments of a learned Single Judge of the erstwhile High Court of Andhra Pradesh in **Haji Mohammed Ahmed vs. State of Andhra Pradesh rep. by its District Registrar, Hyderabad and others**³ and the judgment of a learned Single Judge of this Court in **Tummidi Bala Nagamani vs. State of Andhra Pradesh and others**⁴, would contend that the provisions of Rule 26(k)(i) of the Registration Rules would be applicable to the revocation of gift deeds also.

5. The Hon'ble Supreme Court, in the case of **Asset Reconstruction Company** (supra), was dealing with the question of whether the execution and registration of any document, could be challenged by way of a writ petition or whether such a challenge can be raised only by way of a civil suit. The Hon'ble Supreme Court had held as follows:

“ ...
53. Actually, the registration of a document comprises of three essential steps among others. They are:

¹ 2022(8) SCC 210

² 2018 (1) ALD 532 (DB)

³ 2012 (2) ALT 57

⁴ 2023 (1) ALD 431 (AP)

- i) execution of the document, by the executants signing or affixing his left hand thumb impression;
- ii) presenting the document for registration and admitting to the registering authority the execution of such document; and
- iii) the act of registration of the document.

54. ...

55. ...

56. Thus, the first two steps in the process of registration are substantial in nature, with the parties to the document playing the role of the lead actors and the registering authority playing a guest role in the second step. The third step is procedural in nature where the registering authority is the lead actor.

57. In suits for declaration of title and/ or suits for declaration that a registered document is null and void, all the aforesaid three steps which comprise the entire process of execution and registration come under challenge. If a party questions the very execution of a document or the right and title of a person to execute a document and present it for registration, his remedy will only be to go to the civil court. But where a party questions only the failure of the registering authority to perform his statutory duties in the course of the third step, it cannot be said that the jurisdiction of the High Court under Article 226 stands completely ousted. This is for the reason that the writ jurisdiction of the High Court is to ensure that statutory authorities perform their duties within the bounds of law.

58. It must be noted that when a High court, in exercise of its jurisdiction under Article 226 finds that there was utter failure on the part of the registering authority to stick to the mandate of law, the Court merely cancels the act of registration, but does not declare the very execution of the document to be null and void. A declaration that a document is null and void, is exclusively within the domain of the civil court, but it does not mean that the High Court cannot examine the question whether or not the registering authority performed his statutory duties in the manner prescribed by law."

6. In the present case, the petitioner contends that the 3rd respondent registering authority had failed to perform his statutory duty, required under Rule 26(k)(i) of the Registration Rules framed under the provisions of the Registration Act, 1908. This Rule reads as follows:

26. [(k)(i) The registering officer shall ensure at the time of presentation for Registration of cancellation deeds of previously registered deed of conveyances on sale before him that such cancellation deeds are executed by all executant and claimant parties to the previously registered conveyance on sale and that

such cancellation deed is accompanied Civil or High Court or State or Central Government annulling the transaction contained in the previously registered deed of conveyance on sale. Provided that the registering officer shall dispense with the execution of cancellation deeds by executant and claimant parties to the previously registered deeds of conveyances on sale before him if the cancellation deed is executed by a Civil Judge or a Government Officer competent to execute Government orders declaring the properties contained in the previously registered conveyance on sale to be Government or Assigned or Endowment lands or properties not registerable by any provision of law].

7. On a bare perusal of the rule, it would appear that the rule applies only to cancellation or previously registered conveyances on sale. However, this provision had been considered by this Court as well as the erstwhile High Court.

8. In **Gaddam laxmaiah and others** (supra), a Division Bench of this Court while considering the question of whether the rule 26(k)(i) would be applicable to cancellation of development agreement-cum-GPA had held that the said rule would be applicable to even such documents. A learned Single Judge of this Court, following the said judgment, had held, in **Tummidi Bala Nagamani's** case (supra) that rule 26(k)(i) would be applicable to cancellation of deeds of gifts also. A learned Single Judge of the erstwhile High Court of Andhra Pradesh, in Haji Mohammed Ahmed's case (supra) relying upon the judgment in **Thota Ganga Laxmi and Another vs. Government of Andhra Pradesh and Others**⁵ had held that the rule 26(k)(i) of the Registration Rules would be applicable to unilateral cancellation of gift deeds also.

⁵ (2010) 15 Supreme Court Cases 207

9. In the present case, it is not in dispute that the petitioner herein, was not present at the time of execution and registration of the unilateral of cancellation of the earlier gift deed nor did she consent to such a cancellation. There is a clear breach of rule 26(k)(i) of the Registration rules. There is also clear breach of duty and responsibility by the 3rd respondent Joint Sub Registrar, in registering such a document, in the absence of petitioner, who was the beneficiary to the gift made earlier.

10. For all the aforesaid reasons, this Writ Petition is disposed of cancelling the act of registration of the deed of revocation, dated 15.12.2015 registered as document No.6217/2015. There shall be no order as to costs.

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

R. RAGHUNANDAN RAO, J

Date: 05.12.2025
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THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

WRIT PETITION NO: 40002 of 2016

Date: 05.12.2025
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