

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

**TUESDAY, THE THIRD DAY OF JANUARY
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

WRIT PETITION NO: 14574 OF 2016



Between:

Dr. Indla Rama Subba Reddy, S/o.Pedda Veera Reddy, aged about 63 years,
R/o.D.No.29-7-32, Vishnu Vardhan Rao Veedhi, Suryaraopet, Vijayawada-2, Krishna
District.

...PETITIONER

AND

1. State of Andhra Pradesh, Rep.by its Principal Secretary Department of Revenue, Secretariat, Hyderabad.
2. The District Collector, Krishna District, Chilakalapudi, Machilipatnam.
3. The Sub-Collector Nuzvid, Krishna District.
4. The Tahsildar, Gannavaram, Krishna District.
5. The Joint Sub-Registrar Gannavaram, Krishna District.

...RESPONDENTS

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 the Writ order or Direction more particularly in the nature of Writ of Mandamus declaring the action of the respondents in executing the deed of cancellation vide Document No.8407/2015 dated 18-11-2015, whereby cancelling the sale deed bearing Document No.360/2001 dated 14-02-2001 stands in the name of petitioner in respect of land of an extent of Ac.2-70 cents in RS.No.377/1 & 377/2 in Surampally Village, Gannavaram Mandal, Krishna District is arbitrary, illegal capricious and violative of the provisions of the Registration Act 1908 and the Rule made there under and consequently set aside the same.

I.A. NO: 1 OF 2016(WVMP. NO: 2511 OF 2016)

Between:

1. The State of Andhra Pradesh, Rep.by its Principal Secretary, Department of Revenue, Secretariat, Hyderabad.
2. The District Collector, Krishna District, Chilakalapudi, Machilipatnam.
3. The Sub-Collector Nuzvid, Krishna District.
4. The Tahsildar, Gannavaram, Krishna District.
5. The Joint Sub-Registrar Gannavaram, Krishna District.

...Petitioners/Respondents 1 to 5

AND

Dr.Indla Rama Subba Reddy, S/o.Pedda Veera Reddy, aged about 63 years,
R/o.D.No.29-7-32, Vishnu Vardhan Rao Veedhi, Suryaraopet, Vijayawada-2, Krishna
District.

...Respondent/Petitioner

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 vacate the interim order granted on 28-04-2016 in W.P.M.P. No. 18152 of 2016 in W.P. No. 14574 of 2016.

I.A. NO: 2 OF 2016 (WPMP. NO: 18152 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 direct the respondents not to dispossess the petitioner from the land of an extent of Ac.2-70 cents in RS.No.377/1 & 377/2 in Surampally Village, Gannavaram Mandal, Krishna District by suspending the operation of deed of cancellation bearing document No.8407/2015 dated 18-11-2015 pending disposal of the above writ petition in this Hon'ble Court

Counsel for the Petitioner(s): SRI. SAI GANGADHAR CHAMARTY

Counsel for the Respondents 1 to 5 : GP FOR REVENUE

The Court made the following: ORDER

THE HON'BLE SMT JUSTICE V. SUJATHA

WRIT PETITION No.14574 of 2016

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking the following relief:-

"...to issue the Writ, order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in executing the deed of cancellation vide Document No. 8407/2015, dated 18.11.2015 whereby cancelling the sale deed bearing Document No. 360/2001, dated 14.02.2001 stands in the name of petitioner in respect of land admeasuring to an extent of Ac 2.70 cents in R.S.No.377/1, 377/2 in Surampally Village, Gannavaram Mandal, Krishna District is arbitrary, illegal, capricious and violative of the provisions of the Registration Act, 1908 and the Rules made there under and consequently to set aside the same..."

2. The case of the petitioner is that he purchased the total land admeasuring to an extent of Ac. 2.70 cents under registered sale deed dated 14.02.2001 bearing document No. 360 of 2001 for valuable consideration. His name was mutated in the revenue records, pattadar passbook bearing patta No. 1530 was also issued in favour of the petitioner. The grievance of the petitioner is that the respondents have cancelled the deed No. 360 of 2001 unilaterally without issuing any prior notice. Hence, the present writ petition.

3. When the matter was taken up for admission on 28.04.2016, this Court has passed the following orders:-

".... There shall be interim direction as prayed for since the 4th respondent has no jurisdiction to cancel the

sale deed dated 14.02.2001 executed in favour of petitioner under any law."

4. The Sub-Registrar has filed the counter stating that no illegality or irregularity committed by the respondents in registering the cancellation deed dated 18.11.2015 executed by the 3rd respondent vide document No. 8407/2015; as the subject property is classified as Government property as per the prohibitory properties list vide letter No. REV-ESECOLAS(REP)/6/2015-TAH(SUPDT-E)KCO dated 03.05.2016 by the District Collector, Krishna District pursuant to the Full Bench Judgment in W.A.No. 343/2015, 232/2013; in view of the same, petitioner got the sale deed registered earlier by misleading the authorities.

3. When the matter came up for hearing today, the learned counsel for the petitioner submits that the lis in this Writ petition is squarely covered by the Judgment reported in **Haji Mohammed Ahmed Vs. State of Andhra Pradesh and others¹** and **Fazalullah Khan V. State of Andhra Pradesh, rep. by its District Registrar and others²**.

4. In Haji Mohammed Ahmed Vs. State of Andhra Pradesh and others(Supra), learned Single Judge of this Court held as follows:

¹ 2012(2) ALD 230

² 2012(2) ALT 728

"The Supreme Court, in Thota Ganga Laxmi V. Government of A.P.(1), held that if any sale deed is required to be cancelled, the only remedy is by way of a civil suit for cancellation, but no cancellation deed can be unilaterally executed or registered. The Supreme Court, after referring to Rule 26(i)(k) of the Registration Rules, held that it is only when the earlier sale deed is cancelled by a competent court can a cancellation deed be registered that too after notice to the concerned parties; and unilateral cancellation of the sale deed as well as registration thereof, were wholly void, non-est and meaningless. The observation of the Supreme Court, aforementioned, made in the context of sale deeds would equally apply to unilateral cancellation of gift deeds also. Unilateral cancellation of the gift deed in the present case must there be and is declared to be void. It is made clear that this Order will not preclude the respondent from invoking the jurisdiction of the competent Civil Court for cancellation of the subject gift deed".

5. In similar circumstances, a Division Bench of the High Court for the State of Telangana in **Writ Appeal No.611 of 2017, dated 23.03.2022** held as follows:

"Thus, having regard to the law laid down by the Supreme Court and provisions of the Act, in our opinion, whenever registered documents such as Development Agreement-cum-GPA, is sought to be cancelled, execution and registration of such a document/deed must be at the instance of both the parties i.e., bilaterally and not unilaterally. If a deed of cancellation is allowed to be registered without the knowledge and consent of other party to the deed/document, sought be cancelled, such registration would cause violation to the principles of natural justice and lead to unnecessary litigation, emanating therefrom. In any case, as stated earlier, in the absence of any provision specifically empowering the Registrar to entertain a

document of cancellation for registration without the signatures of both the parties to the document, the deed cannot be entertained. Moreover, if the Registrars are allowed to entertain a deed of cancellation for registration without signatures of both the parties to the document sought to be cancelled, such power would tantamount to conferring the power to decide disputed questions between the parties. No party to the document would ever approach for cancellation of registered document unilaterally unless there is a dispute with the other party in respect of the subject matter of the document".

6. In view of the settled principles of law referred to above and having regard to the facts and circumstances of the case, when the document is sought to be cancelled for execution and registration; it must be at the instance of both parties; but not by one party. In the instant case, since the impugned Registered Gift Deed, which is sought to be cancelled, is only unilateral, but not by both parties of the earlier document, which is illegal and contrary to the settled principles of law and, therefore, the unilateral registration of document cannot be permissible under law. In such circumstances, if the petitioner is aggrieved by the cancellation of such document; he may approach the competent Civil Court for cancellation of such document.

7. In view of the above, this Court is inclined to allow the writ petition, leaving it open to the petitioner to invoke the jurisdiction of the competent Civil Court for cancellation of

sale deed bearing document No. 8407/2015, dated 18.11.2015 by raising all the contentions as raised herein.

There shall be no order as to costs.

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

Sd/- B.PRASADA RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Department of Revenue, State of Andhra Pradesh, Secretariat, Velagapudi, Amaravathi.
2. The District Collector, Krishna District, Chilakalapudi, Machilipatnam.
3. The Sub-Collector Nuzvid, Krishna District.
4. The Tahsildar, Gannavaram, Krishna District.
5. The Joint Sub-Registrar Gannavaram, Krishna District.
6. One CC to SRI. SAI GANGADHAR CHAMARTY, Advocate [OPUC]
7. Two CCs to GP FOR REVENUE, High Court of Andhra Pradesh. [OUT]
8. Two CD Copies

MSR

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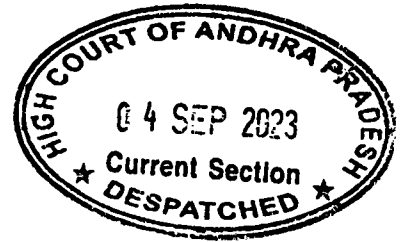
M.M. Bar

HIGH COURT

DATED:03/01/2023

ORDER

WP.No.14574 of 2016



(10)
M.M. Bora
26/7/23

**DISPOSING OF WP
WITHOUT COSTS**