

APHC010238622022



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

[3332]

THURSDAY ,THE TWENTY FOURTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO: 13939/2022

Between:

Peram Radhika Kiran,

...PETITIONER

AND

State Of Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.MEKA RAHUL CHOWDARY

Counsel for the Respondent(S):

1.S V MUNI REDDY

2.GP FOR REGISTRATION AND STAMPS (AP)

3.SUBBA RAO KORRAPATI

The Court made the following:

ORDER:

The action of the 5th respondent in registering the Cancellation Deed bearing document No.1358/2022, dated 12.04.2022, thereby unilaterally revoking the Gift Settlement Deed No.3638/2019, dated 23.11.2019 is

questioned in this writ petition as being arbitrary and illegal and sought for a consequential direction to set aside the Cancellation Deed and the settlement deed bearing document No.1510/2022, dated 30.04.2022 of the Joint Sub-Registrar, Puttur.

2. The case of the petitioner, in brief, is that her father-6th respondent, and her mother jointly purchased an extent of 480 sq.yards, of which the subject property forms part of. In the year 2019, her father by way of gift settlement deed no.3638/2019, dated 23.11.2019 gifted away his share of 240 sq.yards in her favour and subsequently her mother transferred her share of the property of 240 sq.yards by way of another gift settlement deed No.6019/2021, dated 30.12.2021 and ever since she has been in possession and enjoyment of the same. Her husband got constructed a building therein, the same was assessed to property tax and the same is in finishing phase and they intend to earn their livelihood by renting out the premises. Thereafter, at the instigation of some third parties, disputes and differences arose in the family and her father started threatening her to cancel the gift deed and conscious of his statements, the petitioner got issued a legal notice to 4th respondent-Joint Sub Registrar, marking copies to his higher-ups in the registration department requesting them not to entertain any document

presented for cancellation of the gift deed executed in her favour by her father. In spite of the legal notice and in utter disregard to the settled position of law that unilateral cancellation of registered documents is not permitted and Rule 26(i)(k)(i) of the Andhra Pradesh Rules under the Registration Act prohibits registration of unilateral cancellation deed, the 5th respondent-Joint Sub Registrar received the revocation deed unilaterally cancelling the earlier registered gift settlement deed presented by petitioner's father and got it registered. Further, pursuant to registration of the said revocation deed, the petitioner's father executed gift settlement deed No.1510/2022, dated 30.04.2022 gifting away subject matter of the settlement deed executed in favour of the petitioner in favour of respondent nos.7 & 8. The said action of the registering authorities is in utter violation of the Rule 26(i)(k)(i) of the Andhra Pradesh Rules under the Registration Act and contrary to the observations made by the Hon'ble Supreme Court in ***Thota Ganga Lakshmi vs. Government of Andhra Pradesh (2010)15 SCC 207***. Accordingly prayed to allow the writ petition by granting the reliefs sought in the writ petition.

3. The 5th respondent-Sub Registrar, Puttur, filed counter-affidavit denying the averments of the writ petition and further contending that

Revocation of Settlement is covered by Article 49(B) of Schedule 1-A to the Indian Stamp Act,1899. Whereas the deeds cancelling previously registered sale deeds alone are covered under Rule 26(1)(k) of the Registration Act,1908 which mandates that the registering officers shall ensure that such cancellation deeds are executed by all the executants and claimants to the previously registered deeds and revocation of settlement deeds are not covered by the above and as such execution by both the parties i.e. settlor and settlee is not mandatory for registration of the revocation deeds cancelling the previously registered settlement deeds and the said position was clarified in Director and Inspector General's Memo No.G4/4956/2016, dated 06.06.2016, wherein it was stated that as per the Registration Act,1908 and Registration Rules there is no bar for registration of revocation of gift deed which is executed by the Donor. In view of the above clarification, the revocation of settlement deed executed by the settlor V.Subbarama Naidu was processed for registration, since registration of the above revocation deed is not prohibited and thus there is neither inconsistency nor incongruity. The writ petition is meritless and the same deserves dismissal.

4. The respondent no.6-executant of the revocation deed, filed his counter-affidavit denying the averments of the writ petition and further

contending that Rule 26(k)(i) of the Registration Rules are not applicable in the instant case, as this is case of revocation/cancellation of settlement deed and since the petitioner, without exhausting the alternative and efficacious remedies, has approached this Court directly and therefore the writ petition is not maintainable. The petitioner brought into existence the gift deed by playing fraud and he never intended to execute gift settlement deed. The respondent no.6 instituted the suit vide O.S.No.46 of 2022 against the petitioner, her husband and her mother now pending on the file of the Court of the learned IV Additional District Judge, Tirupathi, seeking cancellation of the Registered settlement Deed Doc.No.3638/2019, dated 23.11.2019. The respondent nos.7 & 8 instituted the suit vide O.S.No.73 of 2022 against him, his wife, the petitioner, her mother and father for partition of the property including the subject property and the same is pending. The 6th respondent married one V.Suguna and through her begot two daughters and himself and his daughters constitute Hindu Joint family having 1/3rd share each in all the properties including the subject property. The marriage of respondent no.6 with his wife is still subsisting. It is his further case that petitioner's mother after begetting the petitioner deserted her husband and developed illegal intimacy with respondent no.6 and the petitioner and her mother have no properties. The respondent no.6, during the course of business purchased

some properties in the name of the petitioner and her mother for business purpose only but not for her welfare. The respondent no.6 by selling joint family properties purchased properties in the name of the petitioner, her mother and husband. When respondent no.6 was suffering with liver disease and was taking treatment without any support, the alleged settlement deed was brought into existence by undue influence, blackmailing and playing fraud on him. The said gift deed recites as if the petitioner was his daughter and he was executing the document out of love and affection, which are far away from truth and after recovering from illness, the respondent no.6 demanded the petitioner to revoke the settlement deed, but she refused and hence respondent no.6 executed revocation deed. The revocation deed is valid and Rule 26(k)(1) of the Registration Rules have no application to the gift deeds. The petitioner has to file a civil suit before competent court of law and this writ petition is not maintainable. Accordingly, prayed to dismiss the writ petition.

5. The respondent nos.7 & 8 filed common counter denying the averments of the writ affidavit further contending that execution of the revocation deed cancelling the earlier registered settlement deed is in consonance with the provisions of the Registration Act and hence the reliefs

sought in the writ petition are liable for rejection. The respondent nos. 7 & 8 filed suit vide O.S.No.73 of 2022 now pending on the file of X Additional District & Sessions Judge's Court, Tirupathi, against their-father, mother, writ petitioner, her mother and husband for partition properties including the subject matter of the writ petition and also filed an application for orders of restraint, restraining the defendants in the suit from alienating the property and the trial Court vide orders dated 12.08.2022 directed both the parties to maintain status quo. The respondent nos. 7 & 8 learnt that their father filed O.S.No.46 of 2022 on the file of IV Additional District Judge's Court, Tirupathi seeking cancellation of the registered settlement deed No.3638/2019, dated 23.11.2019 executed by him in favour of the writ petitioner and the said suit is pending adjudication. After birth of the writ petitioner, her mother deserted her husband and developed illegal intimacy with respondent no.6 and by fraudulent means got the gift deed executed by him in favour of writ petitioner, though he has no absolute rights over the property and having realized the fraud the respondent no.6 executed the revocation deed dated 12.04.2022 cancelling the settlement deed dated 23.11.2019 and thereafter executed registered settlement deed in favour of respondent nos. 7 & 8 in relation to the property covered thereunder even before the date of passing

interim orders in this writ petition. The writ petition being meritless deserves dismissal.

6. The petitioner filed common reply to all the counter-affidavits filed by respondents inter alia contending that petitioner is daughter of respondent no.6 and the same is evident from the contents of the gift settlement deed as well as revocation deed wherein the petitioner was described as daughter of respondent no.6 and it is he that performed her marriage, did Kanyadanam and he was the GPA holder of the petitioner and handled all her financial activities including purchase and sale of the properties for several years. It is as part of the family arrangement, the respondent no.6 executed the gift deed and on account of disputes among members of the family respondent no.6 is making all possible efforts to cause hardship including financial loss to the petitioner and execution of revocation deed is part of such efforts. The statutory mandate under Rule 26(i)(k)(i) of the Registration Rules, 1908 based on the principles of natural justice is equally applicable to deeds executed for cancellation of gift settlement deed previously registered, as has been held by the Hon'ble Supreme Court and this Court in several cases. The memo No.G4/4596/2016 dated 06.06.2016 alleged to have been issued by the Director and Inspector General cannot override the statutory provisions.

The respondent nos. 7 & 8 in collusion with respondent no.6 under the guise of partition suit are trying to grab the self acquired property of the petitioner and her husband and pendency of partition suit has no relevancy to the subject matter in the writ petition, since the writ petition is filed prior in point of time to the civil suits filed by respondent nos. 6 to 8. In view of the observations made in ***Ediga Chandrasekhar Gowd vs. State of Andhra Pradesh*** {(2017) 4 ALD 12} that the term "Conveyance" would certainly include deeds of gift and therefore, Rule 26(i)(k)(i) is applicable to gifts also and further in view of the observations made in ***Kolli Rajesh Chowdary v. State of Andhra Pradesh*** {(2019)3 ALD 229} the gift deed executed subsequent to execution of cancellation deed unilaterally is also void, the subsequent gift deed executed by respondent no.6 in favour of respondent nos.7 & 8 is void and the same is liable to be set aside. Accordingly, prayed to allow the writ petition.

7. Heard Sri *M.Rahul Chowdary*, learned counsel for the petitioner, learned Assistant Government Pleader for respondent nos. 1 to 5, Sri *S.V.Muni Reddy*, learned counsel for respondent no.6 and Sri *Subba Rao Korrapati*, learned counsel for respondent nos.7 & 8.

8. Sri *M.Rahul Chowdary*, learned counsel, while reiterating the contents of the writ affidavit further submitted that Rule 26(i)(k)(i) of the Andhra Pradesh Rules under the Registration Act, 1908 prohibits the registration of unilateral cancellation deed in relation to an earlier registered document, however the registering authority ignoring the fact that the settlor under the previous settlement deed is not a party to those documents, received processed and registered the revocation deed in clear violation of the mandate contained in the above Rule and therefore, the revocation deed is wholly void and non-est in the eye of law. The learned counsel would further submit that in view of the categorical observations made by the Hon'ble Supreme Court in the decision in ***Thota Ganga Laxmi v. Government of A.P.***¹, 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 learned counsel would further submit that in ***Ediga Chandrasekhar Gowd v. Sate of A.P.***², it has been held that "conveyance" has a wider connotation and it would certainly include deeds of sale/gift/exchange and thus Rule 26(i)(k)(i) is applicable not only to sale deeds but also to gift deeds as well. The learned counsel would further

¹.(2010) 15 SCC 207 : (2013) 1 SCC (Civ) 1063 : 2010 SCC OnLine SC 734 at page 209

²(2017)4 ALD 12

submit that since the unilateral cancellation deed revoking earlier gift settlement deed is null and void, the subsequent gift deed executed by respondent no.6 in favour of respondent nos.7 & 8 is also void. Accordingly, prayed to allow the writ petition.

9. The learned Assistant Government Pleader justified the action of the Registering Authority stating that there is no bar for registration of revocation of gift deed in view of the instructions of the Director and Inspector General vide Memo No.G4/4596/2016, dated 06.06.2016 and there is nothing for this Court to interfere with the action of the registering authority and this writ petition lacks merits and the same has to be dismissed.

10. Sri *S.V.Muni Reddy*, learned counsel for respondent no.6, while reiterating the contents of the counter-affidavit would further contend that Rule 26(k)(i) of the Registration Rules are not applicable to the revocation/cancellation of settlement deeds, but only applicable to sale deeds. The learned counsel would further submit that the petitioner instead of availing alternative and efficacious remedy of getting the revocation deed cancelled by taking recourse to filing suits in a civil Court has filed the writ petition and therefore, this writ petition is not maintainable. The learned counsel would further submit that the petitioner brought into existence the

gift settlement deed by playing fraud on respondent no.6 and the respondent no.6 never intended to execute such a gift deed and in fact the petitioner is not his daughter and her mother developed intimacy with respondent no.6 after the birth of the petitioner and the contents of the gift deed referring to the petitioner as daughter would itself suggest falsity of the document and makes it clear that it has been brought into existence by playing fraud on respondent no.6 and therefore he executed revocation deed and subsequently executed settlement deed in respect of the subject property in favour of respondent nos. 7 & 8. The learned counsel would further submit that as an abundant caution, the respondent no.6 filed a suit for cancellation of the registered settlement deed which was cancelled through the revocation deed and the said suit is pending. The learned counsel would further submit that daughters of respondent no.6 i.e. respondent nos. 7 & 8 filed suit for partition of the joint family properties including the subject property and the said suit is pending and the petitioner herein is made as defendant in both the suits and she can get her grievance redressed in those suits. There are no merits in this writ petition and the same is liable to be dismissed.

In support of his contentions, the learned counsel for respondent no.6 relied on the decision of the High Court of Judicature at Hyderabad for the

state of Telangana and the State of Andhra Pradesh dated 22.01.2018 passed in Second Appeal Nos.818 & 819 of 2016.

11. Whereas, *Sri Subba Rao Korrapati*, learned counsel for respondent nos.7&8 while reiterating the contents of the counter further contended that when once a document is registered the Registering Authority, its role stands discharged and the Registering Authority cannot either invoke or cancel the registration of document already registered and the aggrieved person of such registration of the document is free to challenge its validity before the Civil Court. Therefore, this writ petition filed without approaching the Civil Court is misconceived and the writ petition is liable to be dismissed. The learned counsel would further submit that the acts of the registering officers being mere administrative with no public duty involved in it and therefore, the errors if any committed by them, the party aggrieved shall resort to civil Court for cancellation of the deed but cannot approach this Court by writ petition. The learned counsel would further submit that the suit filed by respondent no.6 for cancellation of the settlement deed executed in favour of petitioner is pending consideration and the petitioner can redress her grievance in the said suit. The writ petition is misconceived and misdirected and the same is liable to be dismissed.

In support of his contentions, the learned counsel relied on the decisions reported in ***P.Veda Kumari and another v. Sub Registrar, Hyderabad and another***³, ***Satya Pal Anand vs. State of Madhya Pradesh and another***⁴ and ***Amudhavali and Others v. P.Rukumani and others***⁵

12. Perused the material available on record and considered the submissions made by the learned counsel for parties. The facts that are not in dispute are the respondent no.6 executed a gift settlement deed dated 23.11.2019 in favour of the petitioner gifting away the subject property which was registered as document No.3638/2019 of Joint Sub Registrar's Office, Tirupathi. Subsequently, respondent no.6 executed cancellation deed and got it registered bearing document No.1358/2022 dated 12.04.2022 whereunder the gift deed executed by him earlier in favour of the petitioner was cancelled. It is also borne out from the record that respondent no.6 also filed a suit vide O.S.No.46 of 2022 on the file of the Court of the learned IV Additional District Judge, Tirupathi for cancellation of the registered settlement deed No. 3638/2019 dated 23.11.2019 executed by him in favour of the petitioner and the said suit is pending adjudication and therein the petitioner is arraigned as

³., 2017(6) ALD 79

⁴. (2016) 10 SCC 767

⁵. AIR 2022 SUPREME COURT 267

defendant No.1 while her mother and husband are shown as defendant nos.2 and 3. The record would further reveal that respondent nos. 7 & 8 filed a suit for partition vide O.S.No.73 of 2022 on the file of the Court of the learned X Additional District Judge, Tirupathi and therein vide orders dated 12.08.2022 passed in I.A.No.147 of 2022, which was filed to restrain the respondents therein from alienating the properties, the Court directed the parties to the suit to maintain *status quo*. The subject matter of the writ petition is one of the items of the plaint schedule properties that are sought to be partitioned and the petitioner, her mother and husband are arraigned as defendants in the said suit.

13. The crux of the argument of the learned counsel for the petitioner is that as per Rule 26(i)(k)(i) of Andhra Pradesh Registration Rules, the Registering authority is debarred from receiving, processing and registering the cancellation deed contemplating to cancel the earlier registered document, unless all the executants of the earlier registered document execute that document accompanied by mutual consent of the parties. However, ignoring that specific Rule which mandates consent of all the parties to the earlier registered document to the revocation deed, the authorities in utter defiance of the Rule, have received, processed and registered the

cancellation deed presented by settlor without any consent on the part of the settlee to the said revocation/cancellation deed.

14. Rule 26(i)(k)(i) of Andhra Pradesh Registration Rules reads as under:

“26(i) [(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 the executant and claimant parties to the previously registered conveyance on sale and that such cancellation deed is accompanied by a declaration showing mutual consent or orders of a competent 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.

(ii) Save in the manner provided for above no cancellation deed of a previously registered deed of conveyance on sale before him shall be accepted for presentation for registration.”

15. The above rule in clear terms states that the registering officer shall ensure at the time of presentation for registration of cancellation deed of previously registered deed of conveyances on sale before him that such cancellation deed is executed by all the executant and claimant parties to the

previously registered conveyance on sale. This Rule prohibits registration of cancellation deeds executed unilaterally by the executants.

16. In the decision in *Thota Ganga Laxmi v. Govt. of A.P.*, relied on by the learned counsel for the petitioner (supra 1), the Hon'ble Supreme Court of India after referring to Rule 26(i)(k)(i) held thus:

"3. A writ petition was filed seeking declaration that the cancellation deed is illegal and that has been disposed of by the impugned judgment holding that the appellants should approach the civil court.

4. In our opinion, there was no need for the appellants to approach the civil court as the said cancellation deed dated 4-8-2005 as well as registration of the same was wholly void and non-est and can be ignored altogether. For illustration, if *A* transfers a piece of land to *B* by a registered sale deed, then, if it is not disputed that *A* had the title to the land, that title passes to *B* on the registration of the sale deed (retrospectively from the date of the execution of the same) and *B* then becomes the owner of the land. If *A* wants to subsequently get that sale deed cancelled, he has to file a civil suit for cancellation or else he can request *B* to sell the land back to *A* but by no stretch of imagination, can a cancellation deed be executed or registered. This is unheard of in law."

17. The observations referred to above make the things clear that cancellation of the registered sale deed can only be registered when the sale deed was cancelled by a competent civil Court and that too after notice to the parties concerned.

18. Further, in the decision in *Haji Mohammed Ahamed v. State of Andhra Pradesh and others*⁶, a Coordinate Bench of this Court held that

⁶.2012(2) ALD 230

the observations of the Supreme Court, aforementioned, made in the context of sale deeds would equally apply to unilateral cancellation of gift deeds also.

Relevant observations made in the said decision are as follows:

"4. The Supreme Court, in ***Thota Ganga Laxmi v. Government of A.P.***, Judgment in CA No. 791 of 2007 and Batch, 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 transactions. The observations 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 therefore 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."

19. Thus, it is clear that the observations made by Hon'ble Supreme Court in Thota Ganga Laxmi in relation to sale deeds shall apply to gift deeds. Therefore, Rule-26(i)(k)(i) prohibits unilateral cancellation of gift deeds also.

20. The observations made in ***Ediga Chandrasekhar Gowd v. State of A.P.***, relied on by the learned counsel for the petitioner (supra 2) are to the effect that the term "conveyance" has wider connotation and it would certainly include deeds of sale/gift/exchange by which property is transferred from one person to another. If the Rule making authority which framed Rule

26(i)(k)(i) intended that the said rule should apply only to sale/gift/ exchange deeds it would have mentioned these categories of documents specifically. There was no necessity to use the words "conveyance on sale".

21. Therefore, the observations made in the above referred decisions clear the cloud that Rule 26(i)(k)(i) shall also apply to gift deeds. Thus, the contrary contentions raised by the learned counsel for the respondents cannot be countenanced.

22. Thus, the observations made in the above decisions and the relevant Rule extracted above, would make it clear that unilateral cancellation of the gift deed must be declared to be void. As a corollary the deeds that were executed subsequent to execution of such a void cancellation deed shall also become null and void.

23. In the decision relied on by the learned counsel for respondent nos.7 & 8 in ***Satya Pal Anand*** (supra 4), their lordships of Hon'ble Supreme Court held thus:

"42. In the absence of any express provision in the 1908 Act mandating the presence of the other party to the extinguishment deed at the time of presentation for registration, by no stretch of imagination, such a requirement can be considered as mandatory. The decision in *Thota Ganga Laxmi* is with reference to an express provision contained in the Andhra Pradesh Rules in that behalf. That Rule was framed by the State of Andhra Pradesh after the decision of Full Bench in *Yanala Malleswari v. Ananthula Sayamma* (AIR 2007 AP 57) of the High Court. Therefore, the dictum in this decision cannot have universal application to all the States.

Further their Lordships after extracting paras 4 and 5 of the judgment in Thota Ganga Lakshmi case held at para-43 as follows:

“43. No provision in the State of Madhya Pradesh enactment or the Rules framed under Section 69 of the 1908 Act has been brought to our notice which is similar to the provision in Rule 26(k)(i) of the Andhra Pradesh Registration Rules framed in exercise of power under Section 69 of the 1908 Act. That being a procedural matter must be expressly provided in the Act or the Rules applicable to the State concerned. In the absence of such an express provision, the registration of extinguishment deed in question cannot be labeled as fraudulent or nullity in law. As aforesaid there is nothing in Section 34 of the 1908 Act which obligates appearance of the other party at the time of presentation of extinguishment deed for registration, so as to declare that such registration of document to be null and void.....”

Their Lordships at para-46 of the judgment further held thus:

“46. In our considered view, the decision in Thota Ganga Laxmi was dealing with an express provision, as applicable to the State of Andhra Pradesh and in particular with regard to the registration of an extinguishment deed. In absence of such an express provision, in other State legislations, the Registering Officer would be governed by the provisions in the 1908 Act. Going by the said provisions, there is nothing to indicate that the Registering Officer is required to undertake a quasi-judicial enquiry regarding the veracity of the factual position stated in the document presented for registration or its legality, if the tenor of the document suggests that it required to be registered. The validity of such registered document can, indeed, be put in issue before a Court of competent jurisdiction.”

24. Ultimately, their Lordships observing that since the case of ***Thota Ganga Laxmi*** besides the fact that it was dealing with an express provision contained in the statutory Rule, namely, Rule 26(k)(i) of Andhra Pradesh Registration Rules, 1960, was also not a case of a deed for cancellation of allotment of plot by the Housing society, but of a cancellation of the registered sale deed executed between private parties, which was sought to

be cancelled unilaterally, held that the exposition in ***Thota Ganta Laxmi*** will have no application to the facts of that case.

25. A perusal of the observations made by their Lordships in ***Satya Pal Anand*** case, makes it patent that absence of provision in the State of Madhya Pradesh enactment or the Rules framed under Section 69 of the 1908 Act akin to Rule 26(k)(i) of the Andhra Pradesh Registration Rules is highlighted and held that in the absence of an express provision or Rule the Registering Officer would be governed by the provisions of 1908 Act and thereby without taking up any quasi-judicial enquiry has to register the document. And the validity of such a document can be put in issue before a Court of competent jurisdiction.

26. The existence of a specific Rule 26(k)(i) in Andhra Pradesh Registration Rules which mandates registering officer to ensure that cancellation deed is executed by all the executants and claimant parties to the previously registered conveyance accompanied by a declaration showing a natural consent; makes the decision in ***Satya Pal Anand*** case inapplicable to the facts of the case on hand.

27. In ***P.Veda Kumari and another*** (supra 3), relied on by the learned counsel for respondent nos.7 & 8 at para-17, a learned single judge of the unified High Court of Andhra Pradesh held thus:

“17. In view of the above discussion, it is held that the unilateral execution of a document of deed of cancellation, cancelling the earlier registered document and registration of the same by the registering authority prior to the amendment can validly be done by the Registering Authority and the aggrieved party can challenge such action, whereas after the amendment the Registering authority cannot register a document of cancellation without following the amended Rule 26(k) of the Rules.”

28. The above observations make it abundantly clear that subsequent to amendment of Rule 26(k) on 02.06.2014 the Registering authority cannot register a document of cancellation without following the amended Rule. The facts of the case on hand clearly suggest that registration of unilateral cancellation deed is of the post-amendment era. Therefore, the above observations would not come to the rescue of respondents and moreover they support the version put forth by the petitioner.

29. Further, in the decision in *Amudhavali and others* (supra 5), the Hon'ble Supreme Court, while taking into consideration the factum of filing suit questioning the cancellation deed and its pendency and participation of the appellants by filing written statement in the said suit and further noting that subsequent to registration of cancellation deed, a portion of land was transferred, declined to interfere with the order impugned and examine the validity of the cancellation deed.

30. Therefore, the decisions relied on by the learned counsel for respondent nos. 7 & 8 referred to supra are not at all applicable to the facts

of the case on hand, since differ on facts. Rule 26(k)(i) in Andhra Pradesh Registration Rules in specific terms obligates the Registering officer to ensure that the revocation deed must be executed by all the parties to the earlier registered deed sought to be cancelled by the said revocation/ cancellation deed. Thus, the action of the registering authority receiving the document and registering it, ignoring the factum that the cancellation deed is only unilateral and without the consent of the settlee of the earlier gift deed and, is beyond the authority and jurisdiction conferred upon him by the statute. Therefore, there was no need for the petitioner to approach the civil Court seeking cancellation of the cancellation/revocation deed as the said cancellation deed as well as registration of the same was wholly void and non est and can be ignored altogether. As a corollary the subsequent gift deed executed by respondent no.6 in favour of respondent nos.7 & 8 will become null and void.

31. The contention of the respondents that the Memo No.G4/4596/2016, dated 06.06.2016 of the Director and Inspector General specifically states that as per Registration Act,1908 and Registration Rules there is no bar for Registration of revocation of Gift deed which is executed by the Donor is misdirected in view of the clarification given in the decision referred to above in ***Haji Mohammed Ahamed*** (supra 6), a Coordinate Bench of this Court held that the observations of the Supreme Court in ***Thota***

Ganga Laxmi, made in the context of sale deeds would equally apply to unilateral cancellation of gift deeds also.

32. In the above view of the matter, the only course open to the donor of a gift deed to get the same cancelled is by approaching the competent civil Court but not by presenting an unilateral cancellation deed before the registering authority. Thus, the action of the 5th respondent by receiving, processing and registering the cancellation/revocation deed though presented unilaterally by the donor without the consent of the donee as required by Rule 26(k)(i) of Andhra Pradesh Registration Rules, is illegal and arbitrary and thus the cancellation deed/revocation deed and so also the subsequent gift deed executed by respondent no.6 in favour of respondent nos.7 & 8 in relation to the subject property covered under the revocation deed/cancellation deed are also liable to be set aside being void.

33. In the counter-affidavit, respondent no.6 alleges fraud in bringing into existence the settlement deed by the petitioner/settlee and that he never intended to execute such a settlement deed in favour of respondent no.6. As stated supra, the only option available to the donee- respondent no.6 is to get the gift deed cancelled by approaching a competent civil Court. The material available on record amply shows that respondent no.6 had already filed a suit before the jurisdictional Court for cancellation of the settlement deed

executed in favour of the petitioner. The petitioner, her mother and husband are made party-defendants to the said suit and the said suit is pending adjudication. Therefore, in case respondent no.6 succeeds in the said suit, naturally the settlement deed executed in favour of petitioner would get cancelled by operation of law.

34. In view of the above, this writ petition is allowed, declaring the cancellation deed dated 12.04.2022 bearing document No.1358/2022 and the settlement deed bearing No.1510/2022, dated 30.04.2022 executed by respondent no.6 in favour of respondent nos.7 & 8 in respect of the subject matter of the settlement deed on the file of the Joint Sub Registrar's Office, Puttur, are void and the concerned Sub Registrar shall make necessary entries to that effect in relevant registers. There shall be no order as to costs.

As sequel thereto, miscellaneous petition, if any, pending shall stand closed. Interim orders, if any, shall stand vacated.

JUSTICE RAVI CHEEMALAPATI

Note: L.R. copy to be marked.

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