

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

**HON'BLE Mr. JUSTICE PRASHANT KUMAR MISHRA, CHIEF JUSTICE
&
HON'BLE Mr. JUSTICE NINALA JAYASURYA**

WRIT PETITION No.16462 of 2012

Veluru Sobha Rani, W/o. H.K. Naga Raju, aged about 42 years, Occ:
housewife, R/o.K.Velmavaripalli village, Pulivendula Mandal, YSR District,
presently residing at Indira Nagar, Bangalore

... Petitioner

Versus

The State Government of A.P., rep. by its Inspector General, Stamps &
Registration, Hyderabad, and others

... Respondents

ORDER (ORAL)

Dt:24.04.2023

(Prashant Kumar Mishra, CJ)

Challenge in this writ petition is to the unilateral action of
respondent No.2, Sub-Registrar, Pulivendula, YSR District, cancelling the
gift deeds dated 18.04.2000 registered as document Nos.418 and 424 of
2000 through cancellation deeds dated 30.11.2009 registered as
document Nos.5398 and 5399 of 2009 and consequently to set aside the
said cancellation deeds.

2. Petitioner's mother and brother, i.e. respondents 3 and 4
respectively, had executed gift deeds dated 18.04.2000 in favour of the
petitioner in the office of respondent No.2 in respect of agricultural land to
an extent of Ac.3.02 cents out of Ac.9.08 cents in Sy.No.111, Ac.4.36
cents out of Ac.13.06 cents in Sy.No.120, Ac.3.48 cents out of Ac.10.44

cents in Sy.No.109, Ac.1.82 cents in Sy.No.119, Ac.1.36 cents out of Ac.4.09 cents in Sy.No.121 and Ac.0.53 cents out of Ac.1.58 cents in Sy.No.122 of K. Velmavaripalle, Pulivendula Mandal, YSR District (hereinafter referred as 'the subject land') and delivered peaceful possession to him. However, subsequently, the said gift deeds were cancelled through registered cancellation deeds dated 30.11.2009 without notice to him.

3. It is put forth by the petitioner that the Hon'ble Supreme Court in ***Thota Ganga Laxmi and Ors. v. Government of Andhra Pradesh and Ors. – (2010) 15 SCC 207***, held that cancellation deed cannot be registered unless the same is signed by both the executants and claimants or the same is accompanied by a declaration of the competent civil court. Basing upon this judgment, the petitioner prays that cancellation deeds dated 30.11.2009 registered as document Nos.5398 and 5399 of 2009 deserve to be set aside.

4. ***Thota Ganga Laxmi*** (supra) is a case wherein writ petition was filed seeking declaration that the cancellation deed is illegal; High Court relegated the petitioners to approach the civil court, as against which the Hon'ble Supreme Court held that there was no need for the petitioners/appellants to approach the civil court. The Hon'ble Supreme Court held thus in paragraphs 3, 4 & 5:

"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."

"5. In this connection, we may also refer to Rule 26(k)(i) relating to Andhra Pradesh under Section 69 of the Registration Act, 1908, which states:

"(i) The registering officer shall ensure at the time of preparation 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 natural 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.”

5. Although ***Thota Ganga Laxmi*** (supra) has been referred to a Constitution Bench by a subsequent decision of the Hon’ble Supreme Court in ***Satya Pal Anand v. State of Madhya Pradesh and others – (2015) 15 SCC 263***, there is an observation by the Supreme Court in paragraph 29 that in the absence of any rule like the one that is prevalent in the State of Andhra Pradesh, which commands the registering officer to ensure at the time of preparation for registration of cancellation deeds of previously registered deed of conveyances on sale before him that such cancellation deeds are executed by all the executants and claimant parties to the previously registered conveyance on sale, it is difficult to agree with the view taken in ***Thota Ganga Laxmi*** (supra). Thus, in ***Satya Pal Anand*** (supra) also, rule position in the State of Andhra Pradesh was found to prohibit unilateral cancellation of deed of conveyance.

6. A single Judge of this Court in W.P.No.977 of 2019 relied on the judgment in ***Thota Ganga Laxmi*** (supra) and ***Yanala Malleshwari and others v. Ananthula Sayamma and others – 2006 (6) ALD 623 (FB)***, to hold that unilateral cancellation of deed of conveyance is not permissible.

7. In view of the above, we have no hesitation in setting aside cancellation deeds dated 30.11.2009 registered as document Nos.5398 and 5399 of 2009 in the office of respondent No.2 and the same are hereby set aside.

8. Writ petition is, accordingly, allowed. No order as to costs. Pending miscellaneous applications, if any, shall stand closed.

Sd/-

PRASHANT KUMAR MISHRA, CJ

MRR

Sd/-

NINALA JAYASURYA, J