

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE TWENTY THIRD DAY OF AUGUST
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

WRIT PETITION NO: 3315 OF 2011

Between:

1. K. Jaya Laxmi, W/o. K. Venkateswara Rao, Aged about 50 years, Occ: Housewife
2. Smt. B. Deepthi, W/o. B. Madhusudhan Reddy, D/o. K. Venkateswara Rao, Aged about 24 years, Occ: Housewife

(Both the Petitioners are resident of H.No B1-27, HUDA Colony Chandra Nagar Sherlingampally(M), Ranga Reddy District)

...PETITIONERS

AND

1. The State of Andhra Pradesh, rep.by its Commissioner Registration and Stamps Dept Secretariat, Hyderabad
2. The District Collector, Ranga Reddy District Hyderabad
3. The Sub-Registrar, Sherlingampally, Sherlingampally(M) Ranga Reddy District
4. K. Venkateswara Rao, S/o.Subba Rao Employee H.No.B1-27, Huda Colony Chanda Nagar, Sherlingampally(M) Ranga Reddy 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 and appropriate writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 3rd respondent in unilaterally cancelling the registered Gift Settlement Deed, vide Doc No 3101 of 2010, dt 4-10-2010 by registering the cancellation Deed of Gift Settlement vide Doc NO 3883 of 2010 dt 1-12-2010 without following due process of law and contrary to the section 126 of Transfer of property act and the rules envisaged under Registration act as illegal, arbitrary, colourable exercise of power and contrary to settled principles of law and in utter violation of principles of natural justice and violative of fundamental and constitutional rights guaranteed to us

and consequently direct the set-aside the cancellation Deed of Gift settlement vide Doc NO 3883 of 2010 dt 1-12-2010.

I.A. NO: 1 OF 2011(WPMP. NO: 4104 OF 2011)

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 suspend the cancellation deed of gift settlement vide Doc NO 3883 of 2010 dt 1-12-2010 pending disposal of the above writ petition.

Counsel for the Petitioner: SRI P. SHASHI KIRAN

**Counsel for the Respondent No.1 to 3: SRI MURALIDHAR REDDY KATRAM,
GP FOR REVENUE
(STAMPS & REGISTRATION)**

Counsel for the Respondent No.4: - - - -

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J. SREENIVAS RAO

WRIT PETITION No.3315 of 2011

ORDER: (per the Hon'ble the Chief Justice Alok Aradhe)

Mr. P. Shashi Kiran, learned counsel appears for the petitioners.

Mr. Muralidhar Reddy Katram, learned Government Pleader for Revenue (Stamps & Registration) appears for respondent Nos.1 to 3.

2. In this Writ Petition, the petitioners *inter alia* have prayed for the following relief:

“...in the nature of Writ of Mandamus declaring the action of the 3rd respondent in unilaterally cancelling the registered Gift Settlement Deed, vide Doc.No.3101 of 2010, dated 4.10.2010 by registering the Cancellation Deed of Gift Settlement vide Doc.No.3883 of 2010, dated 1.12.2010 without following due process of law and contrary to Section 126 of Transfer of Property Act and the rules envisaged under Registration Act as illegal, arbitrary, colourable exercise of power and contrary to settled principles of law and in utter violation of principles of natural justice and violative of fundamental and constitutional rights guaranteed to us and consequently the set-aside the Cancellation Deed of Gift Settlement vide Doc.No.3883 of 2010, dated 1.12.2010.”

3. Facts giving rise to filing of this Writ Petition briefly stated are that the petitioners claim to be the owners and possessors of house bearing No.B1-27 (MIG Category), Municipal No.11-27 in phase-I, R.C.Puram, Ring Town, having a total plinth area of 4500 Sft (G+2 floors) measuring 250.71 sq.yards in Survey Nos.366 & 367 situate at Huda Colony, Chandanagar Village, under GHMC Sherlingampally Circle, Sherlingampally Mandal, Ranga Reddy District. The petitioners had acquired the aforesaid property by virtue of a registered Gift Settlement Deed dated 04.10.2010 executed by respondent No.4 in their favour.

4. Subsequently, respondent No.4 has executed Cancellation Deed of Gift Settlement on 01.12.2010 and presented the same before the Sub-Registrar who in turn registered the aforesaid document. In the aforesaid factual background, this Writ Petition has been filed.

5. Learned counsel for the petitioners submitted that the aforesaid Cancellation Deed of Gift Settlement cannot be registered in view of the mandate contained in Rule 26(i)(k) of the Andhra Pradesh Rules under the Registration Act, 1908

(hereinafter referred to as 'the Rules'), and it is not necessary for the petitioners to approach the civil court seeking a declaration that the aforesaid Cancellation Deed of Gift Settlement is illegal. In support of the aforesaid submission, reliance has been placed on the decision of the Supreme Court in **Thota Ganga Laxmi vs. Government of Andhra Pradesh**¹.

6. Admittedly, the aforesaid registered Gift Settlement Deed which was executed in favour of the petitioners has been unilaterally cancelled by the respondent No.4 vide Cancellation Deed of Gift Settlement dated 01.12.2010. Rule 26(i)(k) of the Rules reads as under:

"26(i)(k) That the Cancellation Deed of the previously registered deed of conveyance on sale of immovable property is executed by both the executing and the claiming parties thereof unless such Cancellation Deed is executed under the orders of a competent Court or under Rule 243."

Thus, it is evident that the Sub Registrar cannot register the Cancellation Deed of Gift Settlement until and unless the same is executed by both the parties or is executed under the orders of the competent Court or under Rule 243 of the Rules.

¹ 2012 (1) ALD 90 (SC)

7. The aforesaid eventualities under Rule 26(i)(k) of the Rules have not been fulfilled in the instant case. Therefore, the Cancellation Deed of Gift Settlement is in contravention of Rule 26(i)(k) of the Rules and the same cannot be sustained in the eye of law. It is accordingly quashed.

8. In the result, the Writ Petition is allowed.

Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

//TRUE COPY//

SD/- MOHD. ISMAIL
ASSISTANT REGISTRAR

Red
SECTION OFFICER

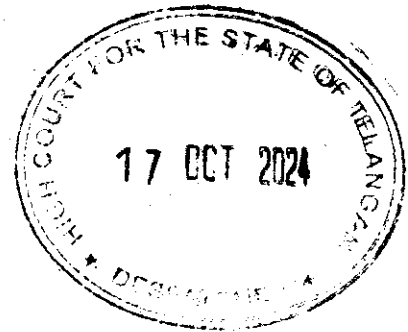
To,

1. The Commissioner Registration and Stamps Dept The State of Andhra Pradesh, Secretariat, Hyderabad
2. The District Collector, Ranga Reddy District Hyderabad
3. The Sub-Registrar, Sherlingampally, Sherlingampally(M) Ranga Reddy District
4. One CC to SRI P. SHASHI KIRAN, Advocate [OPUC]
5. Two CCs to GP FOR REVENUE (STAMPS & REGISTRATION), High Court for the State of Telangana. [OUT]
6. Two CD Copies
BN
BN

CMR

HIGH COURT

DATED:23/08/2024



ORDER

WP.No.3315 of 2011

**ALLOWING THE WRIT PETITION
WITHOUT COSTS**

*① CHAR
28/9/24*