

**IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD**

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**WRIT PETITION NO.38018 OF 2014**

Between:

Cherukuthota Raghunath.

**...Petitioner**

**AND**

1. The Commissioner and Inspector General of Registration  
and Stamps A.P., Mozamjahi Market, Hyderabad - 500001  
And eight others.

**...Respondents**

**JUDGMENT PRONOUNCED ON: 03.11.2022**

**SUBMITTED FOR APPROVAL:**

**THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR**

1. Whether Reporters of Local : Yes/No  
newspapers may be allowed to see  
the Judgment ?
2. Whether the copies of judgment : Yes/No  
may be marked to Law  
Reports/Journals
3. Whether Their Lordship/Ladyship : Yes/No  
wish to see the fair copy of  
judgment

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**MUMMINENI SUDHEER KUMAR, J**

**THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR****+WRIT PETITION NO.38018 OF 2014**

%Dated 03.11.2022

# Cherukuthota Raghunath.

**...Petitioners**

**AND**

\$ 1. The Commissioner and Inspector General of  
Registration and Stamps A.P., Mozamjahi Market, Hyderabad  
- 500001  
And eight others.

**...Respondents**

! Counsel for Petitioner : Mr. R.Dheeraj Singh

^ Counsel for Respondent Nos.1 to 4 and 6 : Government  
Pleader for  
Revenue

Counsel for Respondent Nos.7 to 9 : Mr. Kiran Palakurthi

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> HEAD NOTE :

**? Cases referred :**

1. 2020 Law Suit (AP) 223
2. (2022) 8 SCC 210

**THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR**WRIT PETITION NO.38018 OF 2014**ORDER:**

Heard learned counsel for the petitioner, learned Assistant Government Pleader for Revenue for the respondents 1 to 4 and 6 and Mr. Kiran Palakurthi, learned counsel for the respondents 7 to 9 (LRs of the deceased-fifth respondent).

2. The unilateral registration of revocation of Gift Settlement Deed, dated 19.11.2014 vide document No.8901/2013 executed by the fifth respondent herein revoking the Gift Settlement Deed, dated 05.06.2013 is challenged in the present Writ Petition.

3. The fifth respondent herein executed Gift Settlement Deed, dated 05.06.2013 in favour of the petitioner herein and the same was registered in accordance with law. Consequent upon the said Gift Settlement Deed, the petitioner herein approached the revenue authorities for mutation of the subject property covered by the said Gift Settlement Deed and the same was directed to be mutated in the name of the petitioner through proceedings No.B/3439/2013 dated 14.11.2013. The name of the petitioner was also entered in the revenue records. While things stood thus, the fifth respondent herein approached

the second respondent herein stating that the Gift Settlement Deed executed by her was not acted upon and not accepted by the petitioner and that the petitioner was not inducted into the possession of the property. Thus, the fifth respondent presented revocation of Gift Settlement Deed, dated 19.11.2014 before the second respondent and the second respondent registered the same as document No.11442/2014, thereby revoking the Gift Settlement Deed that was executed by the fifth respondent herein.

4. In terms of Rule 26(i)(k) of the Telangana Rules under the Registration Act, 1908 ("the Rules" for brevity), the second respondent is under obligation to verify whether the cancellation deed presented for registration canceling the previously registered document is executed by both the executant and claiming parties or not and only on satisfying that the cancellation deed is executed by both the parties, the second respondent can proceed to register the said cancellation deed.

5. But, in the instant case, the impugned document i.e. the revocation of Gift Settlement Deed, dated 19.11.2014 is executed by only the fifth respondent herein and the petitioner herein, though was shown as party to the said document, has not signed on the said document. Thus, the second respondent

failed to comply with the requirement of Rule 26(i)(k) and registered impugned revocation of Gift Settlement Deed executed by the fifth respondent. Hence, the same is registered in violation of Rule 26(i)(k) of the Rules, which reads as under:-

“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.”

6. Though the fifth respondent is served with notice and an appearance was entered, no counter affidavit is filed. As the fifth respondent is reported to have passed away, her legal representatives are brought on record as respondents 7 to 9 in the Writ Petition. Respondents 7 to 9 are also served with notice and proof of service is already filed before this Court vide USR.No.84260 of 2022 but no appearance was entered on behalf of respondents 7 to 9.

7. The effect of Rule 26(i)(k) of the Rules fell for consideration before this Court in the case of **Pinnama Raju Ranga Raju v.**

**State of Andhra Pradesh**<sup>1</sup> and this Court held as under:-

“Thus, the term “conveyance” has a wider connotation and it would certainly include deeds of “sale”/“gift”/“exchange” deeds, it would have mentioned these category of documents specifically. There was no necessity to use the words “conveyance on sale”.

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

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<sup>1</sup> 2020 Law Suit (AP) 223

category of documents specifically. There was no necessity to use the words “conveyance on sale”.

The obvious intention of the rule making authority appears to be to cover transactions which are not merely in the nature of deeds of sale. It thus, in my opinion, intended to cover not only “sale”/“gift”/“exchange” deeds but also “agreements for sale”/executory contracts or “agreements for sale-cum-General Power of Attorney” or “agreements for sale-cum-Irrevocable General Power of Attorney”.

Further, the Hon’ble Apex Court considered the issue, whether this Court in exercise of power under Article 226 of the Constitution of India can consider the request for cancellation of documents registered in the case of **Asset Reconstruction Company (India) Limited v. S.P.Velayutham and Others**<sup>2</sup> and held as under:-

“Arguments were advanced on the question whether the registering authority is carrying out an administrative act or a quasi-judicial act in the performance of his statutory duties. But we think it is not relevant for determining the availability of writ jurisdiction. If the registering authority is found to be exercising a quasi-judicial power, the exercise of such a power will still be amenable to juridical review under Article 226, subject to the exhaustion of the remedies statutorily available. On the contrary if the registering authority is found to be performing only an administrative act, even then the High Court is empowered to see whether he performed the duties statutorily ordained upon him in the manner prescribed by law.”

8. In the light of the above, this Court has no hesitation to hold that the impugned cancellation deed registered by the second respondent in violation of law in particular Rule 26(i)(k) of the Rules. Hence, the same is liable to be cancelled. Accordingly, the action of the second respondent in registering the deed of revocation dated 19.11.2014 vide document

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<sup>2</sup> (2022) 8 SCC 210

No.11442/2014 is declared as illegal and arbitrary and the same is hereby cancelled. The second respondent is further directed to carry out necessary endorsements in the relevant register within four (4) weeks from the date of receipt of a copy of this order. Accordingly, the Writ Petition is allowed.

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

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**(MUMMINENI SUDHEER KUMAR, J)**

3<sup>rd</sup> November 2022

**NOTE:** LR Copy be marked  
B/O  
RRB