

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

**CIVIL REVISION PETITION NOs.4651 AND 5020 OF 2011**

**COMMON ORDER:**

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The petitioners herein are the plaintiffs. They filed Civil Suit O.S.(SR).No. 5023 of 2011 seeking for a declaration that the registered cancellation of gift settlement deed bearing document No740 of 2002 dated 16.02.2002 is null and void and for further declaring the suit schedule property as the Government land. On that basis, they also sought for grant of perpetual injunction over the suit schedule property to restrain defendants 1 to 3, their agents or other men claiming through them from interfering with the possession and enjoyment of the land by the Government of Andhra Pradesh over the suit schedule property.

2. Before I proceed any further, it would be appropriate to notice that the Judgment of the Full Bench of this Court rendered in ***Yanala Malleshwari and others Vs. Anantula Sayamma and others***<sup>[1]</sup>, when appealed against in Civil Appeal No.317 of 2007, was set aside by the Supreme Court by the Judgment rendered on 13.07.2010. It will be appropriate to notice the following principle from the said Judgment of the Supreme Court.

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.

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A reading of the above rule also supports the observations we have made above. It is only when a sale deed is cancelled by a competent Court that the cancellation deed can be registered and that too after notice to the concerned parties. In this case, neither is there any declaration by a competent court nor was there any notice to the parties. Hence, this Rule also makes it clear that both the cancellation deed as well as registration thereof were wholly void and non est and meaningless transactions.”

3. In view of the above legal position, the gift settlement said to have been executed by the father of the defendants 1 to 3 in the company of Sri Rangacharyulu, gifting a parcel of land to the Government of Andhra Pradesh cannot be cancelled subsequently by the legal representatives of only one donor.

4. When once an immovable property is gifted to the State and the State has accepted the same, thereupon, it becomes a property of the State and consequently general public will have a subsisting interest therein. The State has got to be put on notice and heard before any such cancellation can be resorted to. It is important to bear in mind that there will not be any consideration for a gift. Once a gift is accepted by the donee, and a conveyance deed is executed in that respect, the title

over the said property passes on to the State. Unless the State itself takes a decision to specifically alienate the property once again, in a manner known to law, property of the State cannot be re-conveyed to the legal representatives of one of the donors. The cancellation of the gift deed, once accepted would not arise. Therefore, the orders passed by the Court below are manifestly unsustainable orders. Hence, they are set-aside. State of Andhra Pradesh should be directed to be impleaded as one of the defendants to the suit, so that it's stand would be known in the matter.

5. Therefore, both the revisions are allowed setting aside the orders passed by the Civil Court in this regard.

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**NOOTY RAMAMOHANA RAO, J**

30<sup>th</sup> December, 2011  
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[\[1\]](#) 2006 (6) ALT 523