

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**WRIT PETITION NO.12383 OF 2021**

**ORDER:**

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

*“to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the 2<sup>nd</sup> respondent in not deleting the document No.10071/2006 executed by the 3<sup>rd</sup> respondent in favour of the 4<sup>th</sup> respondent in view of the decree in OS.No.515 of 2012, dated 16.12.2013 on the file of the Court of the Principal Senior civil Judge, Anantapur as illegal, arbitrary and violation of principles of natural justice and consequently direct the 2<sup>nd</sup> respondent to make necessary entries by deleting the document No.10071/2006 executed by the 3<sup>rd</sup> respondent in favour of the 4<sup>th</sup> respondent in view of as mentioned above and pas such other order or orders. ”*

The case of the petitioner in nutshell is that the petitioner has purchased an extent of Ac.0.15 cents out of Ac.0.89 ½ cents out of Ac.4.69 cents out of Ac.4.87 cents in Sy.No.156/3 of Rapthadu Village and Mandal, Anantapur District on 24.12.2008 from Smt.Rajeswari W/o.Nagaraju of Anantapur Town, who is the absolute owner of the property having purchased the property through registered sale deed vide document No.9325/2008. The 4<sup>th</sup> respondent purchased the entire Ac.4.87 cents of land from the 3<sup>rd</sup> respondent through registered sale deed dated 27.07.2006.

Originally the land belongs to the 3<sup>rd</sup> respondent who purchased the said land of Ac.4.87 cents in the auction conducted by the Central Bank, Anantapur District on 21.07.1999. Thereafter the entire land was sold to G.Padmaja & P.Bharath jointly. Subsequently the said G.Padmaja & P.Bharath partitioned the said land and the subject property of Ac.0.15 cents was allotted to the

share of said P.Bharath who executed gift deed in favour of Smt.P.Rajeswari including the subject land and subsequently the petitioner purchased the said piece of Ac.0.15 cents from the said Smt.P.Rajeswari, who was the absolute owner of the property.

It is further contended that the suit filed by the petitioner for declaration of title of the plaintiff therein and permanent injunction was decreed ex-parte on 06.12.2013. In view of the decree granted declaring the title over the property, the petitioner made a representation to the 2<sup>nd</sup> respondent to delete the entries relating to the sale deed executed by the 3<sup>rd</sup> respondent in favour of the 4<sup>th</sup> respondent dated 27.07.2006 from the registration books including encumbrance certificate registered, but no action was taken thereon and the 2<sup>nd</sup> respondent refused to delete the entries by issuing endorsement. Hence, the action of the 2<sup>nd</sup> respondent in refusing to delete the document executed by the 3<sup>rd</sup> respondent in favour of the 4<sup>th</sup> respondent from the books of registration and Encumbrance Certificate is illegal and arbitrary and requested to issue a direction.

Learned counsel for the petitioner, Sri N.Prem Raj, reiterated the contentions while drawing attention of this Court to Rule 118 of AP Registration Rules under Registration Act, 1908 and on the strength of the same the petitioner requested the 2<sup>nd</sup> respondent to delete sale deed bearing Doc No.10071/2006 from the books of the Registration and encumbrance certificate. But the 2<sup>nd</sup> respondent did not accede to the request to delete the same. Hence, the petitioner approached this Court to issue a direction to the 2<sup>nd</sup> respondent by declaring his inaction as illegal and arbitrary.

Whereas, the learned Assistant Government Pleader for Stamps and Registration opposed the petition as the relief is

ambiguous and Rule 118 has no application to the present facts of the case.

As seen from the relief claimed in the petition, the petitioner claimed writ of mandamus declaring the action of the 2<sup>nd</sup> respondent in not deleting the document bearing No.10071 of 2006 executed by the 3<sup>rd</sup> respondent in favour of the 4<sup>th</sup> respondent, in view of the decree in O.S.No.515 of 2012 dated 16.12.2013, on the file of Principal Senior Judge Court, Anantapur as illegal and arbitrary and violation of principles of natural justice and consequently to direct the 2<sup>nd</sup> respondent to delete the same. The prayer in the writ petition is silent and the relief itself is ambiguous and in the absence of clarity, it is difficult to issue writ of mandamus which is purely discretionary in nature.

If examined for a moment that these documents are required to be deleted from the register the only rule which enables the registrar to cancel the documents from the books is Rule 118 of AP Rules under the Registration Act, 1908 (for short 'the Act'). Rule 118 of the Act reads as under:-

(a) *"on the registration of a document which revokes, or cancels or rectifies an error in, or modifies the terms of, a document previously registered in the same class of register book or of lands acquired under the Land Acquisition Act or of a document received and filed under Section 89 (vide Rule 13 supra), or on the receipt of a communication from a Revenue Officer or from a court which intimates a similar revocation cancellation, rectification or modification, a note shall be entered at foot of the entry of the later document or communication as under:*

*This document revokes (cancels, rectifies or modifies)*

*Communication*

*Document No. if copied the document filed at pages the*  
*return filed*

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*and at foot of the previous entry of the document previously registered or filed a note shall be entered as shown below:*

*This Document*

*Document has been revoked - cancelled return  
rectifies or modifies by the Document No. Document  
filed copied the return filed*

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*(b) "When the revocation, cancellation, rectification or modification is of a document relating to immovable property, a corresponding note shall also be entered in Index No. II and when it relates to the rectification of any particulars entered in Indexes I, II, III or IV, a note of rectification shall also be entered in the respective index as against the particular item rectified".*

The instant case would not fall within the first part of Rule 118 i.e., registration of a document which revokes, or cancels or rectifies an error in, or modifies the terms of, a document previously registered in the same class of register book or of lands acquired under the Land Acquisition Act or of a document received and filed under Section 89 (vide Rule 13 supra). In so far as second part i.e., to the receipt of a communication from a Revenue Officer or from a court which intimates a similar revocation or cancellation, rectification or modification. In the present case, no communication was received by the registrar from the Revenue Officer or from the Court intimating about the rectification, cancellation or revocation or modification of document. In the absence of any communication about the rectification or cancellation or revocation of any document from the Court for deletion which is already registered, the 2<sup>nd</sup> respondent-Registrar is not under obligation to exercise power under Rule 118 of Andhra

Pradesh Rules under Registration Act. Here, the petitioner himself made a representation to the Registrar and on the basis of the same an endorsement No.NIL/Petitions/2017, dated 11.08.2017, referring Rule 2 (k)(i) was issued. But, based on such request of the petitioner, a document which is already registered and entered in the register cannot be cancelled.

Therefore, the claim of the petitioner would not attract Rule 118 of the Andhra Pradesh Rules under the Registration Act, 1908 and consequently the 2<sup>nd</sup> respondent is not under obligation to accede to the request. Hence, I find no merit in the contention of the petitioner and thereby the petition is liable to be dismissed.

In the result, the writ petition is dismissed at the stage of admission itself. However, the petitioner is at liberty to persuade his legal remedies as per law. No costs.

As a sequel, Interlocutory Applications pending, if any, shall stand closed.

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**JUSTICE M. SATYANARAYANA MURTHY**

Date: 30-06-2021

VSL

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