

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.11573 of 2012

ORDER:

No representation for petitioner. In spite of service of notice, no representation for third respondent.

2. The Assistant Government Pleader (Revenue) submits that the writ prayer is no more *res integra* and is covered by decision of this Court in

HAJI MOHAMMED AHMED v. STATE OF ANDHRA PRADESH^[1].

3. Petitioner prays for Certiorari to call for the record and the cancellation of the gift deed on 19.03.2012 vide Document No.1073 of 2012 by the second respondent as illegal and without jurisdiction.

4. The case of petitioner is that on 02.11.2004, the third respondent executed a registered gift deed in favour of the petitioner. On 19.03.2012, the third respondent presented cancellation deed and the same was registered.

The operative portion of the decision cited reads thus:

“3. The Supreme Court, in *Thota Ganga Laxmi v. Government of A.P.*, Judgment in CA No.791 of 2007 and Batch, held that if any sale deed is required to be cancelled, the only remedy is by way of civil suit for cancellation, but not cancellation deed can be unilaterally executed or registered. The Supreme Court, after referring to Rule 26(i)(k) of the Registration Rules, held that it is only when the earlier sale deed is cancelled by a competent Court can a cancellation deed be registered that too after notice to the concerned parties; and unilateral cancellation of the sale deed, as well as registration thereof, were wholly void, *non est* and meaningless transactions. The observations of the Supreme Court, aforementioned, made in the context of sale deeds would equally apply to unilateral cancellation of gift deeds also. Unilateral cancellation of the gift deed in the present case must therefore be, and is, declared to be void.

It is made clear that this order will not preclude the respondent from invoking the jurisdiction of the competent civil Court for cancellation of the subject gift deed.”

Having regard to the view taken in the cited decision, the writ petition is

ordered setting aside the cancellation deed dated 19.03.2012 vide document No.1073 of 2012. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

S. V. BHATT, J

August 27, 2016
DSK

[\[1\]](#) 2012 (2) ALD 230