

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

**MONDAY, THE FIFTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE SAMBASIVARAO NAIDU

CIVIL REVISION PETITION NO: 1632 OF 2021

Petition under Article 227 of the Constitution of India, against/aggrieved by the Order dated 06-08-2021 passed in I.A. No.54 of 2021 in O.S.No. 508 of 2009 on the file of Principal Senior Civil Judge, Warangal.

Between:

1. Gandikota Gopaiah, (died)
2. Gandikota Thirupathi, S/o. Late Gopaiah, Aged 49 years, Occ. Agriculture, R/o. H.No.25-7-174/1, Kazipet, Warangal City and District.
3. Gandikota Ramulamma, W/o. Late Gopaiah, Aged 63 years, Occ. Household, R/o. H.No.25-7-174/1, Kazipet, Warangal City and District.

...Petitioners/Defendants/Petitioners

AND

Gandikota Sarojana, W/o. Ravi, Age 32 years, Occ. Household, R/o. H.No.25-5-165, Vishnupuri, Kazipet of Warangal City and District.

...Respondent/Plaintiff/Respondent

IA NO: 1 OF 2021

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 to stay all further proceedings in OS No. 508/2009 on the file of Principal Senior Civil Judge, Warangal.

IA NO: 2 OF 2022

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 to pass an order vacating interim stay granted on 29-10-2021 in C.R.P. No.1632/2021 on the file of this Honorable Court.

Between:

Gandikota Sarojana, W/o. Ravi, Age 32 years, Occ. Household, R/o. H.No.25-5-165, Vishnupuri, Kazipet of Warangal City and District.

...Petitioner/Respondent/Respondent

AND

1. Gandikota Gopaiah, (died)
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...Respondent/Petitioners

Counsel for the Petitioner(s): SRI. J. VENKATESWARA REDDY

Counsel for the Respondents: SRI. S. GANESH RAO

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE SAMBASIVA RAO NAIDU

CIVIL REVISION PETITION.No.1632 OF 2021

ORDER :

This Civil Revision Petition is filed by the petitioners who are defendants in O.S.No.508 of 2009 on the file of Principal Senior Civil Judge, Warangal. The revision is filed under Article 227 of Constitution of India against the order of the trial Court in I.A.No.54 of 2021 dated 06.08.2021 by which the request of the petitioners to recall DW1 for the purpose of marking an unregistered gift deed was negatived. The present revision is filed on the ground that the Court below failed to see that the document dated 05.01.1973 though an unregistered settlement deed, it was already impounded by R.D.O., Warangal. Therefore, it can be received as evidence for adjudication of the suit. The trial Court failed to assign any reasons while dismissing the interlocutory application filed by the petitioners/defendant. They have also claimed that the above referred document can be marked as evidence for collateral purpose and that the trial Court failed to see that in view of the order, the Court ought to have allowed them

to mark the document to protect valuable rights of the petitioners.

2. As per copy of the order in I.A.No.54 of 2021, it seems that the petitioners/defendants filed the above referred application under Order XVIII Rule 17 r/w Section 151 of C.P.C., with a prayer to recall DW1 to mark unregistered gift settlement deed. As per the affidavit filed in support of the petition, the petitioner have claimed that one Pingili Ranadheer Reddy executed an unregistered gift settlement deed in favour of the father of 1st petitioner confirming the rights and possession over an extent of 12 gts in Sy.No.48. The said document was impounded by R.D.O., Warangal after collecting sufficient stamp duty and penalty. The 1st petitioner and his father have constructed house in the property covered by the above referred unregistered gift settlement deed. Therefore, they wanted to mark the documents and for that purpose they filed petition to recall DW1. The application was disputed by the respondent/plaintiff.

3. The Court below having heard both parties, came to the conclusion that the gift deed through which immovable property was gifted requires compulsory registration. Even

if it is impounded the defect cannot be cured and in the absence of such registration, the document cannot be received in evidence. Thereby, dismissed the petition.

4. Heard both parties.

5. Now the point for consideration is:

Whether the request of the petitioners/defendants to recall DW1 for making an unregistered gift settlement deed can be accepted ?

6. **POINT**

Even as per the affidavit filed in support of the petition and as per the arguments advanced by the learned counsel for the petitioner, it is very clear that they wanted to mark an unregistered gift settlement deed. It may be true that it was impounded by R.D.O., Warangal vide proceedings dated 10.02.2007.

7. According to the averments made in the affidavit, an extent of 12 gts., in Sy.No.48 was gifted by one Pingili Ranadheer Reddy in favour of the father of 1st petitioner. According to Section 17(a) of Registration Act such a gift settlement deed requires compulsory registration. Admittedly the document was not registered as required

under Section 17(a) of the Registration Act. In view of Section 49 of Registration Act, such an unregistered document since it is in respect of immovable property, cannot be admitted in evidence, in spite of the fact that it was impounded by the proceedings of the R.D.O., Waranagal, it cannot cure the main defect of registration as required under Section 17 of Registration Act. The Court below having placed reliance on judgment between ***Bhavanam Ademma vs State of Andhra Pradesh***¹, dismissed the request. Therefore, there are no merits in the revision and the impugned order cannot be set aside in exercising the powers of this Court under Article 227 of Constitution of India.

8. In the result, the revision is dismissed with costs.

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

2021(2) AIT 76 (NP)

Sd/- N. CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Senior Civil Judge, Warangal.
2. One CC to SRI. J. VENKATESWARA REDDY, Advocate [OPUC]
3. One CC to SRI. S. GANESH RAO, Advocate [OPUC]
4. Two CD Copies

PSR

HIGH COURT

SSRN,J

DATED:05/12/2022

ORDER

CRP.No.1632 of 2021



**DISMISSING THE CIVIL REVISION PETITION
WITH COSTS.**