APHC010437052026

IN THE HIGH COURT OF ANDHRA PRADESH

AT AMARAVATI **[3311]**

(Special Original Jurisdiction)

Saturday, the 21st day of November 2026

Present

The Honourable Ms. Justice B. S. Bhanumathi

Civil Revision Petition No.2334 of 2026

Between:

Kondareddigari Mamatha, W/o. K. Naveen Kumar Reddy, Age: 44 years, R/o. D. No. 6-85, near Govt. B.C. Boys Hostel, Sherilingampalli, K. V. Rangareddi district.

….Petitioner / J.Dr. No.2

and

1. Appireddygari Venkata Reddy, S/o. A. Rami Reddy, Age: 62 years, Agriculture, R/o. Chiyedu village, Anantapuram rural mandal.

…Respondent / D.Hr.

2. K. Rambhupal Reddy, S/o. K. Obi Reddy, Age: 74 years, Retired Teacher, R/o. D. No.13/352, Ramachandranagar, Anantapuram Town & district.

…Respondents / J.Dr. No.1

Counsel for the petitioner:

1. S. Krishna Reddy

Counsel for the respondents:

None

The Court made the following:

ORDER:

This revision petition is filed under Section 115 C.P.C. against the order, dated 01.07.2026, in E.P. No. 286 of 2015 in O.S. No. 139 of 2007 on the file of the Court of the Principal Civil Judge (Senior Division), Ananthapuram.

2. The facts, briefly stated, are as follows:

a. E.P. No. 286 of 2015 was filed by the respondent No.1 herein under Order XXI, Rules 22, 54, 64 and 66 C.P.C. for attachment and sale of the following mentioned E.P. schedule property of the respondent No.2 / J.Dr. No.1 for realization of the decretal amount of Rs.2,51,194/- including E.P costs of Rs.752/-.

Schedule

Property (House) situated within RD and SRD of Anantapuram in Kamala Nagar, Anantapuram within Anantapuram Municipal Corporation

Govt. Dry. Sy. No. 2049 Extent 196.166 Sq. Yds with building in 240 Sq. Feet in D.No.13/352.

Bounded by:

East : Plot of Shankar Reddy

West : Main Road

North : Plot sold to Kambam Sumithra

South : House of R.V. Suresh Babu in D. No.13/353”

b. The J.Dr. No.1 filed a counter opposing the execution petition stating that the E.P. schedule property is not that of this J.Dr., but is owned by his wife, Sumithra and further that the decretal amount was discharged by this J.Dr., however, suppressing the truth, the execution

petition had been filed after a lapse of eight (8) years of passing the decree. He further alleged that he does not have movable or immovable property in his name.

c. Thereafter, the execution Court attached the total extent of property shown in E.P schedule vide order, dated 27.07.2015, and the attachment was affected on 11.10.2015.

d. Thereafter, again the J.Dr. No.1 contended that he had executed a gift deed with respect to the E.P. schedule property in favour of his daughter on 06.03.2007, i.e., prior to filing of the suit on 25.06.2007.

e. The petitioner himself was examined as PW1. On behalf of the respondent himself was examined as RW1. The certified copy of the registered gift deed, dated 06.03.2007, was marked as Ex.B.1. As such, the execution Court, by another order, dated 20.01.2020, directed attachment of 72 square yards of E.P. schedule property by excluding the property covered by the gift deed marked as Ex.B1. The attachment was affected on 18.03.2020.

f. Thereafter, again the J.Dr. No.1 filed another counter on 10.10.2022 contending that the attachment order was affected on 18.03.2020, whereas the registered gift deed was executed on 22.01.2020 in favour of his daughter even in respect of the remaining site of E.P. schedule property, i.e., 72 square yards and that this extent is required for ingress and egress to the property covered by Ex.R1 and therefore, he executed the second gift deed. As such, he contended that the property shown in E.P. schedule is not liable for attachment and sale.

g. After hearing the D.Hr. and J.Dr. No.1, the execution Court passed an order on 22.02.2023, holding that the daughter of J.Dr. No.1, by name, Kambam Mamatha @ Mamatha Kondareddygari, W/o. K. Naveen Kumar Reddy (revision petitioner), being a universal donee, is liable to discharge the decretal amount. Thus, the execution Court ordered impleadment of the daughter of J.Dr. No.1 as a party to the execution proceedings. Thus, she was added as J.Dr. No.2.

h. The J.Dr. No.2 filed a counter stating that the principles of natural justice had not been followed before adding her as a party to the execution proceedings; that J.Dr. No.1 has other properties in his name, (i.e., land in an extent of Ac.5.00 acres in S. No.597/3 of Cherlopalli village of Ramagiri mandal), and therefore, she is not a universal donee as per Section 128 of the Transfer of Property Act and therefore, she cannot be added as a party; and that since J.Dr.No.1 has no right over the E.P schedule property.

i. On behalf of the D.Hr., he got himself examined as P.W.1. The J.Dr. No.1 was examined as R.W.1 and J.Dr.No.2 was examined as RW.2 and Exs.R1 and R2 were marked. Ex.R1 is the original pattadar pass book bearing patta No.812 for the land to an extent of Ac.3.35 cents in Cherlopalli village. Ex.R2 is the original pattadar pass book bearing Khata No.649 for the land to an extent of Ac.5.11 cents in Polepalli village.

j. After hearing both parties, the execution Court allowed the execution petition permitting the D.Hr. to put 72 square yards (71.22 square yards as per the gift deed, dated 22.01.2020), i.e., the property not covered under the gift deed, dated 06.03.2007, out of the E.P.

schedule property, for sale and directed the D.Hr. to file sale papers, encumbrance certificate and S.R. valuation certificate.

3. Aggrieved by the order, this revision petition was filed.

4. Despite service of notice on the respondent No.1 / D.Hr. on 24.08.2026, there has been no appearance. The respondent No.2 / J.Dr. No.1 is a formal party and has not challenged the impugned order.

5. The learned counsel for the petitioner submitted that the execution Court committed error by ordering re-attachment of the property, that too, without changing the boundaries of the properties sought to be attached and sold. He further submitted that the revision petitioner is not a universal donee as the record shows that the J.Dr. No.1 has other property. That apart, he further vehemently contended that it is only by over caution the second gift deed, dated 22.01.2020, was executed by J.Dr.No.1 in favour of J.Dr.No.2 in respect of 72 square yards, whereas the first gift deed, dated 06.03.2007 (Ex.B1) itself covered the entire E.P. schedule property, as can be seen from the boundaries which are exactly the same as the E.P. schedule property. As such, he contended that when Ex.B1 gift deed was accepted by the Court and exempted the property covered thereunder from being attached and sold, there remains nothing for re-attachment and proceeding with the sale. According to him, due to some mistake, this kind of argument has not been advanced before the execution Court but the fact remains the same and moreover, the J.Dr. No.1 also had contended the same in his counter.

6.

E.P. Schedule	Gift deed, dated 06.03.2007
Property (House) situated within RD and SRD of Anantapuram in Kamala Nagar, Anantapuram within Anantapuram Municipal Corporation Govt. Dry. Sy. No. 2049 Extent 196.166 Sq. Yds with building in 240 Sq. feet in D.No.13/352. bounded by: East: Plot of Shankar Reddy West: Main Road North: Plot sold to Kambam Sumithra South: House of R.V. Suresh Babu in D. No.13/353	Property situated within the S.R.D. of Ananthapur, house constructed with wooden poles and slabs admeasuring 240 square feet bearing Dr. No.13-352 bounded by East: House of Sankara Reddy & wall of Church West: Main road North: House of Kambham Sumithra South: house of Suresh bearing D. No.13-353. Within these boundaries, plot of 124.44 square yards open place and with house constructed with wooden poles and slabs, including the electricity fittings
Gift deed, dated 22.01.2020	**Sale deed, dated 04.03.1999 in favour of J.Dr. No.1**
Property purchased on 05.03.1999 from 1) R. Shyam Sunder and 2) R. Ravi Prakash S/o. late R.V. Subbarayudu vide document No.1765 / 1999 in Book No.1 of Sub-Registrar's office, Ananthapur situated within the S.R.D. of Ananthapur and R.D. of Ananthapur village & municipality bounded by: East : House of Mahendra Varma & wall of church South : House of Suresh West : own house in the same plot North : House of Kambham Sumithra Within these boundaries, plot of 71.72 sq. yards only.	Property located at SRD, Ananthapur, RD of Ananthapur, Ananthapur Municipality purchased by R.V. Subbarayudu, vide Doc. No.34 / 1971 and got through a Will after his death by succession which was sold East: House of Sankara Reddy & Wall of Church South: House of R.V. Suresh Babu bearing D. No. 13-353 West: Main road North: Plot & house of Kambham Sumithra The extent of the property is 196.166 square yards.

7. Though the boundaries of the gift deed, dated 06.03.2007, exactly match with the E.P. schedule property, the extent of the property differs. The E.P. schedule is to an extent of 196.166 sq. yards with a building of 240 square feet, whereas the gifted property is a plot of 124.44 square yards of open place with a house therein admeasuring 240 square feet.

8. The principle that the boundaries prevail over the extent of land and the survey number is applicable where there is a difference of small extent of site / land, but not where there is a huge difference. In the present case, such a plea cannot be accepted because the parties are aware of the contents of the documents and took pleadings basing on them. Initially, the J.Dr. No.1 contended that the E.P. schedule property is that of his wife, Sumithra, but later produced the gift deed in favour of J.Dr. No.2 which had been executed long before the filing of the suit. Nextly, he did not take any specific pleading in his counter that he had gifted the property nor did he disputed the boundaries shown in the E.P. schedule property. It is only during the course of evidence, he changed his version by filing the gift deed, dated 06.03.2007. Basing on the gift deed, considering it only to an extent of 124.44 square yards, the execution Court, by order, dated 20.01.2020, excluded the property covered by the gift deed and directed the remaining extent of 72 square yards of site to be attached and proceeded for sale. This order was not challenged.

9. However, the execution Court came to know about the subsequent gift deed, dated 22.01.2020, executed two days after passing the order of attachment, impleaded J.Dr. No.2, by order, dated 22.02.2023, treating her as universal donee. In the first counter, the J.Dr. No.1 pleaded that he had no other movable or immovable

property and in fact, pleaded that the E.P. schedule property is that of his wife. Thus, since it is only the E.P. schedule property and it was gifted by J.Dr.No.1 in favour of J.Dr. No.2 under two different gift deeds, dated 06.03.2007 to an extent of 124.44 square yards and subsequently to an extent of 72 square yards under the gift deed, dated 22.01.2020, the execution Court considered J.Dr. No.2 as universal donee. Then, the J.Dr. No.2 filed the counter claiming that the J.Dr. No.1 has other properties. Even in the counter of the J.Dr. No.2, though it is stated that the other properties of J.Dr. No.1 can be sold for realization of the decretal amount and the schedule property cannot be brought for sale as the J.Dr. No.1 has nothing to do with the said property, there is no specific mention that the initial gift, dated 06.03.2007 is for the whole extent of property covered by the E.P. schedule property. On the other hand, it was merely stated that the gift deed, dated 22.01.2020, was made for easement of necessity for pathway. There is no need to execute the gift deed, dated 22.01.2020 in respect of 72 square yards if the said property is already covered by the previous gift deed, dated 06.03.2007, even for the purpose of easement of necessity. In fact, a easement of necessity arises only over the property of other person. Therefore, the parties are aware that the previous gift deed, though described the boundaries of the entire property, is limited to the extent of property mentioned therein. Consequently, the transfer sought to be made by the gift deed, dated 22.01.2020, is subject to the order of attachment made on 27.07.2015 as the entire property of E.P. schedule, which includes 72 square yards covered by the gift deed, dated 22.01.2020, was affected.

10. As a result, neither the J.Dr. No.1 nor the J.Dr. No.2 can contend that the remaining 72 square yards of site cannot be put to

sale, because any transfer affected after the order of attachment is subject to attachment. Corollary to the same, the J. Dr. No.2 cannot be treated as a universal donee as the J.Dr. No.1 is left with 72 square yards of property irrespective of any other property available under Exs.R1 and R2.

11. The learned counsel for the petitioner contended that the D.Hr. may proceed against any of the properties covered by Exs.R1 and R2, if the D.Hr. intends to do so.

12. Insofar as the property covered by Ex.R1 is concerned, it was observed by the execution Court that it is situated outside the jurisdiction of the Court as the property is located in Sri Satya Sai district, but it is an erroneous observation as Satya Sai district is part of Ananthapuram judicial district unit, though administrative units of the district were divided.

13. Insofar as the property covered by the respondent No.2 is concerned, it is said to be land given under D. patta. It is subject to terms of issuance of patta.

14. The contention of the learned counsel for the petitioner that the D.Hr. has to proceed against the properties covered by Exs.R1 and R2 cannot be accepted since the D.Hr. has discretion to proceed against any saleable property in the hands of J.Dr. for realization of the decretal amount. Therefore, on that count, the relief cannot be denied.

15. It was also argued that no separate E.P. schedule was drafted in respect of 72 square yards of site. This argument cannot be accepted for the reason that the execution Court specifically observed

that the property covered by the gift deed, dated 06.03.2007, shall be excluded. Therefore, at the time of further steps to be taken for sale, specific boundaries can be mentioned by excluding the property exempted. For that purpose alone, the E.P. schedule need not be amended in the petition, nor can the order be set aside. Therefore, there is no merit in the revision petition.

16. In the result, the revision petition is dismissed.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

B.S. BHANUMATHI, J

Dt.21.11.2026
RAR