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APHC010233392023



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3330]

TUESDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No. 12421/2023

BETWEEN:

1. CHIKKALA DEVIKA MANASA, D/o. DATTATHREYA, AGED ABOUT 33 YEARS, R/o. D.No. 1-1, PENTAKOTA VILLAGE, PAYAKARAOPETA MANDAL, ANAKAPALLI DISTRICT.
2. CHIKKALA DATTATHREYA, S/o. DORAYYA GARU, AGED ABOUT 65 YEARS, OCC: AGRICULTURE, R/o.D.No.1-1, PENTAKOTA VILLAGE, PAYAKARAOPETA MANDAL, ANAKAPALLI DISTRICT.**PETITINER(S)**

AND

1. THE STATE OF AP, REP BY ITS PRINCIPAL SECRETARY REVENUE DEPARTMENT, VELAGAPUDI, GUNTUR DISTRICT, ANDHRA PRADESH.
2. THE JOINT COLLECTOR, ANAKAPALLI, ANAKAPALLI DISTRICT, ANDHRA PRADESH.
3. THE REVENUE DIVISIONAL OFFICERRDO, NARSIPATNAM DIVISION, NARSIPATNAM ANAKAPALLI DISTRICT, ANDHRA PRADESH.

4.THE TAHSILDAR AND RECORDING AUTHORITY,
DEVELOPMENT OFFICER (D.P.R.D.0) PAYAKARAO PETA
MANDAL, ANAKAPALLI DISTRICT, ANDHRA PRADESH.

5.BADIREDDY NAGA VEERA VENKATA SRIRAMA DORA, S/o.
VENKANNA DORA, AGED ABOUT 46 YEARS,
OCC.CULTIVATION, R./o. D.No. 25-8-7, JAYA
KRISHANAPURAM, OPP ANDHRA BANK, RAJAHMUNDRY,
EAST GODAVARI DISTRICT,

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ Order or Direction more particularly one in the nature of Writ of Mandamus Declaring order passed in R.P.No. 12/2023 dated 01-04-2023 passed by the revisional authority cum /joint collector Anakapalli as null and void and set aside the same and declared that it is violation of provisions /rules contemplated in the ROR Act and restore the order passed by the appellant authority in R.C.No. 425/2017/C/ dated 10-10-2017 in the interest of justice and grant such other relief or reliefs.

Counsel for the Petitioner(S):

1.G VENKATA SUBBA RAJU

Counsel for the Respondent(S):

1.GP FOR REVENUE

The Court made the following:

ORDER:

The writ petition is filed to declare the order of the 2nd respondent-Revisonal Authority-cum-Joint Collector, Anakapalli, delivered in R.P. No.12/2023, dated 01.04.2023, as null and void and set aside the same as the said order is in violation of provisions /rules contemplated in the ROR Act and it is contrary to Section 15(2)(a) of Hindu Succession Act 1956 and consequently prayed to restore the order passed by the Appellant Authority in R.C. No.425/2017/C/ dated 10.10.2017, in the interest of justice.

1. "BRIEF FACTS OF THE CASE"

Undisputed facts are, one Chikkala Venkayamma W/o (late) Dorayaa is the owner of the property admeasuring Ac.1-50 cents in Survey Number 54/3 (hereafter called as 'property' for convenience) situated at Pentakota Village of Payakaraopeta Mandal. Her son is Chikkala Dattatreya and he is having two daughters viz., Srivirita and Chikkala Devika Manasa. She executed a gift settlement deed of the said property to her (1st granddaughter) vide document No.2332/2002 dated 02.09.2002 i.e., Smt. Badireddy Srivirita wife of Sri Badireddy Naga Veera Venkata Sri Rama Dora (5th unofficial respondent herein). The name of Srivirita was mutated in the revenue records and pattadar passbook was issued in her favour.

2. While the situation was in this state, the said Srivirita died on 27.11.2005 (her death is un-natural death) then the donor of property i.e., Chikkala Venkayamma got cancelled the gift deed executed in favour of Srivirita vide document no.5355/2007 dated 15.11.2007. The owner of property Chikkala Venkayamma latter executed a registered Will vide document no. 58/2011 dated 22.12.2011 in favour of (2nd granddaughter by name Chikkala Devika Manasa 1st writ petitioner herein), the 2nd writ petitioner is the father of the 1st writ petitioner. The original owner of the property Smt. Chikkala Venkayamma died on 03.05.2012.

3. The 1st writ petitioner made an appeal to the Revenue Divisional Officer to mutate or incorporate her name in the place of her sister Srivirita in the revenue records. The appeal was disposed by the Revenue Divisional Officer vide proceedings in Rc.No.425/2017/C dated 10.10.2017, the same is extracted which reads as follows:

“The pattadar passbooks and Title Deed earlier in the name of Smt. Srivirita W/o **Sri Ramadora** vide 1B Khata No. 521 for the lands in Survey Number 54/3 for an extent of Ac.1-50 cents situated Pentakota Village of Payakaraopeta Mandal, are hereby canceled as she is no more and also the possession of the lands was not delivered to khatadar Srivirita. The Tahsildar Payakaraopeta is hereby directed to take necessary action for the land situated in Survey Number 54/3 to an extent of Ac.1-

50 cents, vide 1B Khata No 521 of Pentakota Village of Payakaraopeta Mandal and also directed to delete corresponding entities in all concerned Record of Rights.

4. The order in Rc.No.425/2017/C, dated 10.10.2017 of the 3rd respondent-Revenue Divisional Officer, was challenged before the 2nd respondent-Revisonal Authority-cum-Joint Collector, Anakapalli, under Section 9 of the A.P. Rights in Land and Pattadar Passbooks Act, 1971 (hereinafter called the Act) by the 5th unofficial respondent who is non-other than the husband of the deceased Srivirita. The 2nd respondent vide impugned proceedings in R.P.No.12/2023, dated 01.04.2023 has allowed the revision in the following gist:

“Once the gift deed is executed by the executant in normal condition, cancellation is not valid; the gift deed cancellation deed executed in favour of Srivirita, vide document No. 5355/2007 dated 15.11.2007, does not have any legal validity, and it is declared as infructuous, and the orders of the 3rd respondent-Revenue Divisional Officer, in Rc.No. 425/027/C dated 10.10.2017, were set aside as they were erroneous and **had legal sanctity**, and the Tahsildar Payakaraopeta was directed to mutate the name of the 5th unofficial respondent.”

5. The said order of the 2nd respondent was assailed in the writ petition by the writ petitioners.

6. The counsel for petitioners would submit that sub-section 2 starts with non-obstante clause with a view to give the enacting part of the provision an overriding effect over sub-section (1) of Section 15, as per the sub-section 2 (a) of Section 15 of Hindu Succession Act 1956, the property inherited by a female Hindu from her father or mother shall devolve, upon the heirs of the father and the 2nd respondent has erroneously relying on the proposition in the case of ***Thota Ganga Laxmi Vs. Government of Andhra Pradesh***¹, on the pretext of the registering authority has no power to cancel the document that if any deed is required to be cancelled, the only remedy is by way of a Civil Suit for cancellation, but no cancellation deed can be unilaterally executed or registered under Rule 26(i)(k) of the Registration Rules; has overturned the order of the 3rd respondent-Revenue Divisional Officer and the said principle is not applicable to the facts of the case and also relied on the following judgments, to buttress that the property given to the daughter on her death the same would devolve upon the heirs of the father in the absence of sons and daughters and predeceased sons and predeceased daughters, and also stated that a suit O.S. No.264 of 2023 on the file of Principal Civil Judge (Junior Division)-cum-Judicial Magistrate of First Class, Yellamanchili, for declaration of title filed by the 1st writ petitioner against the 5th unofficial

¹ (2010) 15 SCC 207

respondent for the same property was decreed vide judgment and decree dated 09.10.2025 by virtue of decree, the 1st petitioner has become absolute owner of the property, hence, prayed to set aside the impugned order in R.P.No.12/2023, dated 01.04.2023 of the 2nd respondent and to allow the writ petition:

In the case of ***V. Dandapani Chettiar V. Balasubramanian Chettiar (dead) by LRs and others***²; ***Radhika (Smt) v. Aghnu Ram Mahto***³; ***Bhagat Ram (Dead) Appellant v. Teja Singh Respondent***⁴; ***Bamadev Panigrahi v. Monorama Raj***⁵; ***Raghuwar Applicant vs. Janki Prasad Opposite party***, for the proposition that a Hindu female who derived property from her parents died intestate, the property devolved upon her children, in absence of children, upon her father and in default of father, upon father's heirs.

7. Despite service of notice, the unofficial 5th respondent has not made any appearance, heard learned counsel for the petitioners Sri G. Venkata Subba Raju and the learned Assistant Government Pleader for the official respondents.

8. Before considering the submission of the writ petitioners, it is expedient to take review of the relevant provision governing the issue.

² (2003) 6 SCC 633

³ (1994) 5 SCC 761

⁴ AIR 1999 SC 1944

⁵ AIR 1974 AP 226

1) The property of a female Hindu dying intestate shall devolve according to the rules set out in section 15:

- (a) firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband;
- (b) secondly, upon the heirs of the husband;
- (c) thirdly, upon the mother and father;
- (d) fourthly, upon the heirs of the father; and
- (e) lastly, upon the heirs of the mother.

2) Notwithstanding anything contained in sub-section (1):

- (a) any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the father; and
- (b) any property inherited by a female Hindu from her husband or from her father-in-law shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the husband

9. The bare reading of Section 15 (2): (a) of Hindu Succession Act 1956 clearly outlines that if the property is inherited by a female Hindu from her father or mother in the absence of any of child, the property of the deceased shall go to the legal heirs of father. The husband will not get any right over the property inherited by her from her father. See the

judgment of Madhya Pradesh High Court in the case of **Anandilal Jhariya and another Vs. Ramlal Jhariya and another**⁶, the Honourable High Court of Madhya Pradesh has held when property is inherited by a daughter from her father and such daughter dies issueless, the property will devolve upon her father's heirs and not upon her husband or his family.

10. And as rightly argued by the counsel for the petitioners, when the unofficial respondent is not entitled for the property pursuant to the Section 15 (2)(a) of Hindu Succession Act 1956, the unofficial respondent is not entitled to claim over the property and in view of the same the gift deed executed by the original owner in favour of the wife of 5th unofficial respondent does not get any right over the property. The Judgment of the Apex Court in **Thota Ganga Laxmi** case is not applicable to the facts of the case, for the reason that the cancellation can only be questioned by the donee/giftee, who is no more. Furthermore pursuant to Section 15 (2)(a) of Hindu Succession Act, the 5th unofficial respondent is not entitled to question the cancellation of registration executed by the original owner, as the unofficial 5th respondent has not derived any title, from her wife.

⁶ AIR 2010 M.P. 21

11. For the above said reasons, this Court hold that the petitioner is entitled for the relief prayed in the writ petition and the issue is answered accordingly.

12. Accordingly, the writ petition is allowed and the impugned order of the 2nd respondent in R.P. No.12/2023 dated 01.04.2023 is hereby set aside and the order of the 3rd respondent- Revenue Division Office is upheld and the 4th respondent-Tahsildar, Payakaraopeta, is hereby directed to mutate the name of the 1st writ petitioner in the revenue records. There shall be no order as to costs.

As a sequel, interlocutory applications, if any, pending in this writ petition shall stand closed.

JUSTICE TARLADA RAJASEKHAR RAO

Date: 17.03.2026

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THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO

W.P.No. 12421 OF 2023

Date: 17-03-2026

Harin