

*** THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**
*** THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR**
CHINTALAPUDI

WRIT APPEAL NO: 734/2026

% 14.07.2026

Savari Eswaramma

.....appellant

And:

\$ Parigala Anjinamma & 2 others

.... respondents

!Counsel for the appellant : Sri Sudheer Kumar

^Counsel for the respondent No.1 : Sri Vivekananda Virupaksha

^Counsel for the respondent Nos.2 & 3 : Sri K.Dilip Naik

<Gist:

>Head Note:

? Cases referred:

1. 2025 LiveLaw (SC) 345
2. 2023(2) ALD 533
3. 2012(1) ALD 90
4. W.A.No.959 of 2024 dated 27.11.2024 passed by APHC

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

* * * *

WRIT APPEAL NO: 734/2026**Between:**

Savari Eswaramma

..... PETITIONER

AND

Parigala Anjinamma & 2 others

....RESPONDENTS

DATE OF JUDGMENT RESERVED :**DATE OF JUDGMENT PRONOUNCED : 14.07.2026****DATE OF JUDGMENT UPLOADED : .07.2026****SUBMITTED FOR APPROVAL:****THE HON'BLE SRI JUSTICE RAVI NATH TILHARI****&****THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR
CHINTALAPUDI**

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|---|--------|
| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. Whether Your Lordships wish to see the fair copy of the Judgment? | Yes/No |

RAVI NATH TILHARI,J

PURUSHOTTAM KUMAR CHINTALAPUDI,J

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR
CHINTALAPUDI

WRIT APPEAL NO: 734/2026

ORDER: *(per Ravi Nath Tilhari, J)*

Heard Sri Sudheer Kumar, learned counsel for the appellant appearing through virtual mode and also heard Sri Vivekananda Virupaksha, learned counsel for respondent No.1 and Sri K.Dilip Naik, learned Assistant Government Pleader for respondent Nos.2 & 3 in I.A.No.1 of 2026 as also in writ appeal.

2. Respondent No.1 is the writ petitioner in W.P.No.23334 of 2021 in which the present appellant was respondent No.3.

3. The writ petition has been allowed by judgment dated 31.03.2026 by the learned Single Judge and challenging the same, the present writ appeal has been filed by respondent No.3 in writ petition.

3. There is a delay in filing of writ appeal. I.A.No.1 of 2026 has been filed for condonation of delay of 30 days.

4. On consideration of the submissions advanced in the said application as also going through the contents of the affidavit in support thereof, we are satisfied that the cause shown is sufficient.

5. The delay is condoned and I.A.No.1 of 2026 is allowed.

6. The appellant is the mother of respondent No.1 herein. The appellant executed a gift deed dated 18.04.2019 in favour of the daughter-respondent No.1. Subsequently, she cancelled the gift deed vide registered cancellation deed dated 16.03.2021 vide Doc.No.3813 of 2021 registered in the office of Joint Sub-Registrar, Kurnool – respondent No.2.

7. Challenging such cancellation order, respondent No.1 herein (writ petitioner) filed W.P.No.23334 of 2021. The same has been allowed on the ground that the unilateral cancellation of the registered gift deed was in violation of Rule 26(i)(k) of A.P.Registration Rules, 1960. The judgment of the Hon'ble Apex Court in the case of ***N.P.Saseendran v. N.P.Ponnamma*** was relied upon. Learned Single Judge directed the Joint Sub-Registrar to issue consequential proceedings to cancel the 'cancellation deed of gift deed dated 16.03.2021' and to restore the gift deed dated 18.04.2019.

8. Learned counsel for the appellant raised various grounds of challenge submitting that the appellant had genuine grounds and reasons to cancel the gift deed raising many factual aspects.

9. Learned counsel for the respondents supported the judgment. He submitted that there could not be unilateral cancellation of gift deed once it was complete. In his submission there was no clause for revocation under the gift deed so there being no circumstances as provided under Section 126 of the Transfer of Property Act, 1882 there could be no unilateral

revocation. The order of the cancellation of the registered gift deed was not justified nor legally sustainable. Consequently, there is no illegality in the judgment/order of the writ Court. He placed reliance in ***N.P.Saseendran v. N.Ponnamma***¹, ***P.Pranjali v. The State of Andhra Pradesh***², ***Thota Ganga Laxmi v. Government of Andhra Pradesh***³ & ***V.Subba Ramanaidu v. The State of Andhra Pradesh***⁴.

10. We have considered the aforesaid submissions but we are not entering into the merits of the impugned judgment, as we are of the view that on a different ground the appeal deserves to be allowed and the writ petition restored for being decided afresh after opportunity of hearing to the non-parties to the writ petition, i.e., the third parties in whose favour the writ appellant created rights by execution of title deeds after, unilateral revocation of the gift deed and those subsequent purchasers were not made party in the writ petition and the said fact was also not brought to the notice of the learned Single Judge in the writ petition by the writ petitioner (daughter) & respondent No.1 in writ petition (mother).

11. During the arguments, it transpired that and it is also one of the grounds taken in the writ appeal, vide para-6 & 7 that O.S.No.447 of 2022 was filed by writ petitioner against the writ appellant/defendant No.1; also against defendant Nos.2 to 5 in the suit, in whose favour defendant No.1 in

¹ 2025 LiveLaw (SC) 345

² 2023(2) ALD 533

³ 2012(1) ALD 90

⁴ W.A.No.959 of 2024 dated 27.11.2024 passed by APHC

the suit had executed certain deeds after the revocation of the gift deed and that suit is still pending in the Court of I Additional Junior Civil Judge, Kurnool.

12. On a specific query being raised to learned counsel for the respondent (writ petitioner) as to whether the proceeding of O.S.No.447 of 2022 pending in the Court of the I Additional Junior Civil Judge, Kurnool was disclosed in the writ petition and was brought to the notice of the learned Single Judge, he fairly submitted that there was no such disclosure, and the suit was filed after filing of the writ petition during its pendency. On further specific query whether the fact of subsequent filing of the suit and its pendency on any date, on which the writ petition was decided, was brought to the notice of the writ Court by filing any affidavit, he submitted that no such affidavit is on the record of the writ petition.

13. O.S.No.447 of 2022 was filed by respondent No.1 herein (i.e., the writ petitioner).

14. The prayer in the suit is being reproduced as under:

“therefore it prayed that the Hon’ble Court may be pleased to

- a) To declare the title of the plaintiff over the plaint schedule property.
- b) Consequently declare that document bearing No.11325/2021 which stands on the name of defendant No.2 and 4 executed by Defendant No.1 is Null and void not binding on the plaintiff.
- c) Grant permanent injunction against the Defendants, their men and agents not to interfere with peaceful possession and enjoyment of the plaintiff in the plaint schedule property.
- d) Such other relief or reliefs as the Hon’ble Court deems fit and proper in the circumstances of the case.”

15. In the suit, the writ appellant (defendant No.1) had filed written statement. However, neither the writ petitioner (plaintiff)(daughter) nor the writ appellant (defendant No.1)(mother) disclosed the said fact in the writ Court.

16. On further specific query as to whether the defendant Nos.2 to 5 in the suit , in whose favour subsequent deeds were executed, were made party in the writ petition, learned counsels submit that they were not made party in the writ petition and they had no opportunity of hearing in the writ Court.

17. We are of the considered view that, in view of the pendency of the suit between the parties i.e., the writ petitioner(daughter)(plaintiff) and the writ appellant (mother)(defendant No.1), along with subsequent transferees (defendant Nos.2 to 5) from the mother (defendant No.1) and the said material aspect not having been disclosed in the writ petition, and those defendant Nos. 2 to 5 in the suit having no opportunity of hearing in the writ petition, as they were not impleaded, but are being adversely affected behind their back, the impugned judgment cannot be maintained.

18. Though the subsequent transferees are not before us, but any right or interest of 3rd party, which is effected by any decision of this Court for the reason of the order being passed behind his back, we cannot ignore such aspect and cannot allow the writ appellant or the writ petitioner to take the benefit of the judgment of this Court against 3rd parties, in a pending suit.

We cannot allow any party to abuse the process of this Court by suppression of material facts and use the order of this Court against a person obtained behind his back.

19. We say so for the reason that under the judgment of the learned Single Judge, the gift deed in favour of the writ appellant has been directed to be restored. The revocation of the gift deed has been set aside. The result is that based on the gift deed which has been restored dated 18.04.2019, the writ petitioner would claim title against the subsequent transferees in whose favour subsequent deeds were executed by the donar (mother) after the revocation of the gift deed in favour of the daughter. In other words, we may say that and it appears to us prima facie that O.S.No.447 of 2022 stands automatically decreed against those defendant Nos. 2 to 5 pursuant to the order of the writ Court. In the writ petition they were not made parties and the order in the writ petition is without their knowledge and certainly behind their back.

20. On the aforesaid ground alone, we allow this appeal. We set aside the order passed by learned Single Judge and restore the W.P.No.23334 of 2021 to its original number for fresh decision. The Writ petitioner shall bring the fact of O.S.No.447 of 2022 pending in the Court of the I Additional Junior Civil Judge, Kurnool, in the record of writ petition and shall also

implead the defendants 2 to 5 in the suit, as party respondents in the writ petition.

21. For the aforesaid reason we have not entered into the merits of the issue. It shall be open to the parties to raise their submissions in the writ petition on the merits as also to place reliance on the judgments placed before us.

22. The Writ Appeal is allowed in the aforesaid terms.

No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

RAVI NATH TILHARI,J

PURUSHOTTAM KUMAR CHINTALAPUDI,J

Dated: 14.07.2026
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THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
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