

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
THE HON'BLE SRI JUSTICE NINALA JAYASURYA
WRIT PETITION NO.20200 of 2023

Between:-

Y. Murali Mohan		Petitioner
	And	
The State of Andhra Pradesh, represented by its Secretary, Stamps & Registration Department & 4 others		Respondents
Counsel for the Petitioner	:	Mr.Marri Venkata Ramana
Counsel for the Respondents	:	Learned Government Pleader for Stamps & Registration

ORDER:

Heard the Learned Counsel for the petitioner. Learned Assistant Government Pleader for Stamps & Registration representing the respondents. With their consent the Writ Petition is disposed of. Notice to the 5th respondent deemed not necessary in the facts and circumstances of the case.

2. Aggrieved by the Refusal Order dated 15.4.2023 in P.No.22 of 2023, the present Writ Petition is filed. The Learned Counsel for the petitioner submits that the petitioner presented a Revocation Deed dated 4.4.2023 for registration and the same was refused by the 4th respondent without giving an opportunity to the petitioner. He submits that the property covered under the said Revocation Deed, is petitioner's ancestral property, which fell to his share in a family partition. The petitioner

gifted the same to the 5th respondent through a Registered Gift Deed *vide* document No.2770/2005 of S.R.O, Chandragiri dated 27.9.2012. He submits that subsequently in view of the changed circumstances, the petitioner executed a Cancellation/Revocation Deed dated 4.4.2023 to cancel the said Gift Deed and presented the same to the 4th respondent, who by relying on a Memo dated 9.12.2021, passed the impugned Refusal Order. Placing reliance on the Judgment in **P.Narasimha Reddy vs. Sub-Registrar, Shamirpeta**¹, the Learned Counsel submits that the Sub-Registrars cannot refuse registration of documents on the basis of Memos. The Learned Counsel also submits that had an opportunity been afforded to the petitioner before passing the impugned Refusal Order, the petitioner would have explained the 4th respondent the relevant aspects and expressed his readiness to discharge the loan, which is stated to have been obtained by the 5th respondent, obtained 'NOC' from the concerned Bank for getting the Cancellation Deed registered. He submits that as the Refusal Order was passed in violation of Principles of Natural Justice, the remedy of Appeal is not a bar for maintaining the present Writ Petition.

3. This Court has considered the submissions made and perused the material on record. Though the Learned Assistant Government Pleader for Stamps & Registration sought to impress upon this Court that the Order of Refusal is containing valid reasons and further that an Appeal lies against

¹ 2005 (2) ALD 807

the said Order, this Court is not in agreement with the said submissions. No doubt, it is true that the Refusal Order is containing certain reasons, but however the 'rejection' is based on a Memo stated to have been issued by the Government. As to whether the said Memo is applicable to the facts of the present case is not an issue for examination by this Court. However, it is the grievance of the petitioner that as the Rejection Order was passed based on the said Memo an opportunity should have been afforded to the petitioner to enable him to put-forth his version. However, the petitioner was denied such an opportunity. Therefore, this Court finds merit in the submission made by the Learned Counsel for the petitioner that the impugned rejection is violative of Principles of Natural Justice.

4. In view of the matter, the Writ Petition is allowed. The impugned Refusal Order is set aside and since the issue is one pertaining to Revocation/Cancellation of a Gift Deed, the 4th respondent shall take necessary action in the matter by giving due opportunity to the petitioner and the 5th respondent and pass orders, afresh strictly in accordance with Law. There shall be no order as to costs. As a sequel, pending applications, if any, shall stand closed.

JUSTICE NINALA JAYASURYA

Date: 9.8.2023

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