IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1834 OF 2015

J.RADHA KRISHNA **APPELLANT(S)**

VERSUS

PAGADALA BHARATHI & ANR. **RESPONDENT(S)**

O R D E R

1. Appellant lays challenge to the judgment and order dated 15th November, 2012 passed by the High Court of Andhra Pradesh at Hyderabad in S.A. No.1459 of 2005 titled *"Pagadala Bharathi & Anr. vs.J.Radha Krishna".*

2. Indisputably, the High Court reversed the concurrent findings of fact recorded by the Trial Court as affirmed by the appellate court. In an appeal (RSA No.1459 of 2005 preferred by the respondent herein) the High Court framed the following substantial questions of law:-

1) Whether the judgments and decrees of the courts below are hit by Section 126 of the Transfer of Property Act?

2) Whether the judgments of the courts below suffer from perversity?

3) Whether the courts below were justified in granting declaration to the plaintiff, who is a stranger to the family, basing upon an unregistered Will ignoring the earlier registered Settlement and Gift Deed?

The High Court answered the questions in the affirmative, in favour of the respondents herein. During the course of the hearing it is fairly stated that primarily it is question no.1 which requires consideration by this Court.

3. It is not in dispute that Shri KVG Murthy, had executed a document dated 10.01.1986 (Ex.B.1) - Gift Deed though claimed as settlement deed by the appellant - in favour of the respondent, the alleged foster daughter namely Pagadala Bharathi. The said document was subsequently cancelled by way of deed of cancellation dated 30.12.1986, whereafter on 30.09.1992, Shri KVG Murthy executed a Will in favour of his brother's son. The High Court while appreciating the evidence and statutory mechanism in place, more specifically Section 126 of the Transfer of Property Act, 1882, in para 19 has returned the findings as under :-

> "19. As stated above, under Section 126 of the Act, if a gift is to be revoked or suspended there should be a right reserved. In fact, the evidence of PW.1, who is the plaintiff in the suit, only shows that a donor has executed the gift deed in favour of defendant no.1 with the hope that she will look after him till his death. As defendant No.1 was not looking after him, the settlement deed was cancelled. Therefore, it is a clear admission of a valid execution of the gift deed Ex.B.1 and no other proof is required. So far as the right of the deceased to cancel the gift deed for failure to maintain or look after the donor is concerned, the evidence of PW.1 does not show that at the time of execution of Ex.B.1, there was such an understanding between the donor and the first defendant. In the absence of such agreement, Section 126 of the Act cannot be relied upon when there is no right reserved or understanding entered into between the donor and done. Therefore, the decision first referred supra cannot be pressed into for the benefit of the respondent herein. In

fact, the law of this aspect is very clear and the courts have repeatedly held a settlement deed once executed cannot be cancelled. In this connection it is useful to refer to a decision reported in ***Namburi Basava Subrahmanyam Vs. Alapati Hymavathi and others,*** wherein their lordships after considering the interpretation of the document as a Will or a settlement deed found that the document was a settlement deed creating vested reminder and the said settlement deed subsequently cannot be cancelled by bequeathing the same property in favour of other. In a decision reported in **M. Venkatasubbaiah Vs. M.Subbamma and others,** it was held that-

> "A gift subject to the condition that the done should maintain the donor cannot be revoked under Section 126 of the failure of the done to maintain the donor firstly for the reason that here is no agreement between the parties that the gift should be either suspended or revoked; and secondly this should not depend on the Will of the donor. Again, the failure of the donee to maintain the donor as undertaken by him in the document is not a contingency which could defeat the gift. All that could be said is that the default of the donee in that behalf amounts to want of consideration. Section 126 itself provides against the revocation of a document of gift for the failure of consideration. If the done does not maintain the donor as agreed to by him the latter could take proper steps to recover maintenance etc. It is not open to a settler to revoke a settlement at his will and pleasure and he has to get it set aside in a court of law by putting forward such pleas as bear on the invalidity of gift deed".

The aforesaid findings in our considered view, remain unimpeachable from the evidence led by the parties. It cannot be said that the same are in any manner perverse or based on incorrect reading, application or interpretation of the statute.

4. As such, we do not find any reason to interfere with the findings of fact and law recorded by the Courts below.

5. The appeal is dismissed.

6. Pending application(s), if any, shall stand disposed of.

……J.
[SANJAY KAROL]

…….……..J.
[SATISH CHANDRA SHARMA]

NEW DELHI;
5TH June, 2025

ITEM NO.101 COURT NO.3 SECTION XII-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 1834/2015

J.RADHA KRISHNA Appellant(s)

VERSUS

PAGADALA BHARATHI & ANR. Respondent(s)

Date : 05-06-2025 This appeal was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE SANJAY KAROL
HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA
(PARTIAL COURT WORKING DAYS BENCH)

For Appellant(s) : Mr. Dama Seshadri Naidu, Sr. Adv.
Mr. Deepak Sharma, Adv.
Mr. Venkateswara Rao Anumolu, AOR

For Respondent(s) :Mr. R Nedumaran, Sr. Adv.
Mr. M. A. Chinnasamy, AOR
Mrs. C. Rubavathi, Adv.
Mr. C. Raghavendren, Adv.
Mr. P Raja Ram, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. The appeal is dismissed in terms of signed order.

2. Pending application(s), if any, shall stand disposed of.

(RAJNI MUKHI) (NIDHI MATHUR)
ASTT. REGISTRAR-cum-PS COURT MASTER (NSH)

(Signed order is placed on the file)