

Decision) makes it clear that a person, who seeks cancellation of a registered document, has to remedies available under Law. They are (1) to seek invalidation of the registered sale deed by approaching the competent Court of Law under Section 31 of The Specific Relief Act, 1963; or (2) To seek cancellation of the registered document by following the procedure prescribed under Rule 26(k) of the Rules framed by the State of Andhra Pradesh”.

20. Therefore in view of the above discussion I am of the humble opinion

that the first para of the decision on hand that a GPA coupled with interest cannot be cancelled unilaterally is correct, but the second part of the decision holding that the prohibition contained in the Rule operates only as regards deeds of conveyance and that a GPA, even if it is coupled with interest cannot be treated as a conveyance and hence can be cancelled, with due respect to the learned Judge, does not seem to be correct and that this aspect requires reconsideration. This matter is an important subject today because of the present day transactions relating to real estate in several ways.

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### REMEMBERING D. NARASA RAJU

By

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If the English are a nation of shop keepers, we are a nation of hero worshippers. Our present day heroes are politicians in power, liquor barons, popular matinee idols, business tycoons and rich industrialists. Scholars, writers, Journalists, artists and men in the learned professions like lawyers, Judges, Professors, doctors and engineers do not figure as ‘heroes’ in our value system. We celebrate the birth and death anniversaries of third rate Politicians whose only merit was their immense capacity for capturing power by hook or by crook, most often by the latter. Did we celebrate the birth anniversary of stalwarts like *Rajamannar* or *Chagla* or *Mulla* or *Alladi* ? A stray article by *F.S. Nariman* or *R. Vasudeva Pillai* is all that the departed great gets by way of remembrance. While the rate of literacy has gone up, respect for learning has come down. Go to any remote village in our great Country, you find at least a couple of liquor shops and a

swarm of eager patrons with a ‘spiritual bent’ of mind ready to imbibe the ‘spirit’ is flowing there in plenty. (It is the spiritual wealth that sustains our Government and keeps it going). Do you find even a single book shop ? Even if there is one, it sells only sex books and text books. If you mention the names of *Shakespeare* or *Milton*, *Gibbon* or *Macaulay*, the shopkeeper will look daggers at you and chase you away as one obstructing his business. Why is it so ? Here is the answer provided by the observation of Dr. *Ambedkar*.

“In the age of *Ramade*, a politician who was not a student was treated as an intolerable nuisance, if not a danger. In the age of Gandhi, learning, if it is not despised, is certainly not deemed to be a necessary qualification of a politician”. The learned Doctor made this observation way back in 1939. How much worse it could be now is any one’s guess.

In this dismal background it is but proper to remember *D. Narasa Raju*, the first Advocate General of our High Court and a learned lawyer and a brilliant advocate who had won the accolades of eminent Judges like *Mutha Venkata Subbarao*, *P. Venkata Ramana Rao Naidu*, *A.S.P. Ayyar*, *H.A. Ayyar* and *Seshachalapathi* as also *M.C. Setlavad*, the first Attorney General of India.

Way back in the early sixties, when I was an apprentice in our High Court, I had a glimpse of *Narasa Raju* from a distance – a medium statured, middle aged, fair complexioned, bespectacled man with a benign countenance. I was too young and immature to have even the remotest idea of his greatness. He was then Advocate General which he later resigned on a point of honour. Subsequently I had the good fortune to read all his speeches and articles without exception “with appetite growing by what it feeds on”. I was struck with admiration by his flawless, fluent and florid English.

His style is simple and straightforward. It is not laboured or involved. His English is chaste and chiselled. His style is as bright as a midsummer sky and as pleasant as a moonlit night – “It flows like snow water upon the mountain side” as was said of *Thackeray*’s. His spoken word has the polish and finish of a finely written masterpiece.

During the ten years and odd he was Advocate General he delivered many welcome and farewell speeches on the occasion of the elevation, transfer or retirement of Judges. These addresses were not of the run-of-the-mill variety giving the biodata of a distinguished dignitary in a chronological order in poor, pedestrian prose very much like the annual audit reports of corporate bodies. But *Narasa Raju*’s addresses are a class by themselves and stand on a high pedestal. They stand comparison with those of the legendary masterminds of the renowned Madras Bar of a glorious bygone age. Another remarkable thing is that they

were delivered extempore. In these degenerate days when we have got so much used to manuscript eloquence, his impromptu speeches stand in refreshing contrast, like cool fresh air in a stuffy room.

On a convivial occasion, it is customary to shower fulsome praise on the distinguished dignitary, who by virtue of his exalted office hogs the limelight. The temptation to endow him with all qualities of head and heart is irresistible. After the euphoria subsides, the bewildered bigwig struggles hard to locate himself in this lavish word picture which is understandably more generous than just and factual. *Narasa Raju* had the happy gift of expressing unsavory things in a delectable way which lent charm to his addresses. In fact some of the Judges about whom *Narasa Raju* had spoken will be remembered only because *Narasa Raju* had spoken about them. Or else they would have been consigned to the limbo of oblivion.

His inaugural speech at the first lawyer’s conference at Rajahmundry on 11.4.1964 is a master piece of English prose and an intellectual treat of the highest order. It is a thought provoking and bold commentary on the functioning of the Judiciary, especially subordinate Judiciary, the problems faced by lawyers, the steady decline of the intellectual standards in the legal profession and the consequent erosion of ethical values *etc.* The entire speech is spiced with subtle humour, biting sarcasm and deadly satire. It reminds one of the celebrated oration of *Mark Antony* in *Shakespeare*’s *Julius Caesar*. Such a masterly and memorable speech deserves to be made only once in a century and only a man of *Narasa Raju*’s attainments and accomplishments could make such a splendid speech. It deserves a place in any anthology of great speeches. It reads extremely well even in cold print even after a long lapse of almost half a century. How much more thrilling and electrifying it must have been when delivered !

Here are a few nuggets for the edification of our esteemed readers.

“It is an unfortunate phenomenon in human life that a person occupying high official position very often deludes himself into the belief that he bearing the burden of the world on his Atlasian shoulders and works himself into a frenzy and fury of tension and anxiety. It is so difficult to realise that no person is indispensable in the scheme of things. That does not however mean that we should not give of our very best before we are thrown on the scrapheap”

x x x

“There is a fundamental difference between egoism which is healthy and creative in character and self conceit which is unhealthy, iconoclastic, intolerant and destructive in character – The greatmen of the earth are egoists, the best example among them being *George Bennard Shaw* and coming nearer home *Mahatma Gandhi*.”

x x x

There is one type of humility which is only apparent and is born of a fundamental intellectual snobbery. There is another type of humility which is born of an awareness that our triumphs as well as disasters are but accidents controlled by an external power and that we have no reason to be vain of our achievements.”

x x x

“In the intellectual duel that takes place between the Judge and the Advocate, the Advocate is in a disadvantageous position because the Judge has the last word. It is open to the Judge to assert, what to an objective mind, appears to be absolutely wrong. And the advocate cannot have the courage to say that the Judge is asserting something which is unreasonable.

x x x

There can be no doubt that to write a judgment that will stand the test of time is a fine art. Judgments are written, can be written and must be written to dispose of a case. But there are judgments that will stand the test of time. I am a little jealous of the role of a Judge because a Judge has a claim to and an opportunity for immortality which is denied to the most brilliant members of the Bar – They only live for a time and consigned to the limbo of oblivion. I dare say that some of them were certainly more brilliant than the most brilliant of the Judges that occupied the Bench at any time but they are forgotten because there is no record. Sometimes it happens that their brains are utilized, their language is taken, their ideas are incorporated but their names are not mentioned. But here the Judge is in a very advantageous and enviable position. He may shed his office, he may retire but his judgments live and if they are worth the salt, they keep his memory green for generations to come.

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There can be no greater punishment to a man of intellectual life than to ask him to lead a life of idleness.

x x x

Admiration is the first step to emulation

x x x

A man who cannot worship a hero cannot himself become a Hero.

x x x

A strong and well balanced Judiciary is a *sine qua non* to a progressive State.

x x x

Life is essentially a matter of devotion to duty and work. It is not enough to be quick and brilliant. It is also necessary to be painstaking and conscientious and that if a

person applies himself steadily, enthusiastically and tirelessly to work and has a genuine passion for knowledge he can leave a more lasting impression and render more effective service to the country and humanity than if he is merely flashy and brilliant.

x x x

Success in a case depends upon several factors such as the merits of the case, the mood and reaction of the Judge, the rigidity or otherwise of the statutory provision to be applied etc.

x x x

It is not possible for anyone, be he the most intelligent and brilliant – to master the law or the art of advocacy overnight. The path to laurels, reputation and success lies through untiring hard work and a passionate interest in the legal profession. It is too much of egotism and vanity for anyone however brilliant he may be, to believe that he knows every branch of the law, civil and criminal. But the real thing that matters is that he has acquired to capacity for analytical and logical thinking and an alertness of mind which is eager to take in the relevant and eschew the irrelevant.

x x x

The administration of justice is a co-operative and joint effort between the Bench and the Bar.

x x x

Every case that a lawyer argues as much as every case that a Judge hears and decides is an opportunity to learn, is a brick in the edifice of knowledge. It is only by this process that the domain of knowledge is enlarged and experience enriched.

It is a great quality in a Judge to be able to take a view different from what he had taken on an earlier occasion, if a new aspect is presented before him.

x x x

There is no greater thing in life than intellectual and emotional flowering. It is not the body that matters. It is the mind and the spirit. It is only the spirit that can give the intellect, the drive and it is the intellect that can give you the necessary will power.

x x x

It is always an advantage to argue before a Judge who freely expresses his ideas and enters into a debate. If the Judge keeps silent, however courteous and patient he may be, he places the members of the Bar at a disadvantage because, the Advocate is unable to understand what doubts and difficulties are troubling the mind of the Judge and has no opportunity of clearing them. So many doubts and difficulties may present themselves to the mind of the Judge when he begins to deliver the judgment and as he did not discuss those aspects when the case was being argued, he may not be able to reach conclusions as sound and satisfactory as those which are the result of discussion in the course of arguments.

x x x

Referring to a Judge *Narasa Raju* said “you have an intimate knowledge of several languages, Urdu, Telugu, *etc.*, besides English of course... ..”. This “of course” is not a mere “of course” with its bare dictionary meaning. It is a very meaningful and significant “of course”. It takes for granted the indispensability of this great world language, English in our scheme of things.

x x x

A Judge is immortal in the sense that the progeny of his intellectual work survives his physical disintegration and subsequent generations have the opportunity of appraising his work. A Judge unconsciously perhaps gives a fresh orientation to legal thought as required by the times in which he lives and does his work. That is how law grows and develops at the hands of Judges.

x x x

Laws's delays and accumulation of arrears are not due to the slackness of work on the part of Judges or members of the Bar. Cases cannot be disposed of or decided by the clock and no Judge will be justified in allowing his mind to be oppressed by the time factor in hearing a case. He must give full opportunity to Counsel to state their points fairly and completely. The Advocate, on the other hand, while he may not repeat the same point over and over again, has nevertheless to present and develop all the points arising in the case in all their aspects. This process necessarily takes time and justice is not done if the litigant is left with a feeling that his rights have been adjudicated upon without adequate hearing.

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The proposal to increase the number of working days of the High Court is not satisfactory. It has to be remembered that an Advocate has to prepare his case at home before he can present it in Court and that an hour's argument in Court means and involves at least three hours study at home.

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A hearing of a case involves discussion and exchange of points of views between the Judge and the Counsel. It is only then that sound conclusions can be reached whether on fact or law

x x x

A Conscientious Judge will have very little time left for recreation and amusement and if Saturdays are also made working days, he will not be able to dictate judgments at home and he will be obliged to dictate them in Court with the result that the quantum of work turned out does not improve or increase.

x x x

An intimate knowledge of trial work in the Courts of original jurisdiction is a distinct

asset and enables a judicial officer to evaluate and appreciate the evidence of witnesses in a proper and correct manner and also to understand the procedural defects and difficulties. To know the workings of the litigant mind at first hand is of course an advantage.

x x x

A Judge can discharge the judicial functions satisfactorily without creating an atmosphere of tenseness and rigidity in Court. The members of the Bar feel quite at ease and do not experience more than the degree of tension than is inherent in the life of the lawyer and ultimately a greater amount of work can be turned out.

x x x

A compromise has the incidental but very material advantage of avoiding appeals and further appeals. It is one way of solving arrears. Not to coerce the parties into compromise but to persuade them to settle their differences is a fine art.

x x x

It is not necessary how many cases a Judge has disposed of that matters but the litigant public and the members of the Bar are more essentially concerned with how he has heard the cases. How many second appeals there would be in which the question of law can be formulated in the abstract, without getting into details and even if the case is susceptible of formulation, how many members of the Bar can do so ?

x x x

All the members of the Bar are certainly not of the same equipment or experience or analytical faculty. Some of them are still novices, some of them are struggling their way to find their expression and most of them are still in a stage where they cannot command respect by virtue of their position at the Bar.



It is in the formative period that the Bar expects and requires utmost consideration, encouragement and perhaps sympathy, I do not in the least suggest that the Bench should decide wrongly to help a junior.

x x x

On account of the hurry of disposal, the statistical returns, the need to show that we are better than other Judges, the anxiety to demonstrate that while other people take two hours to decide, you take five minutes to decide, the tendency is growing upon the Judges to treat the members of the Bar as incursions forgetting that the members of the Bar and members of the Bench are performing a dual function for the achievement of a common purpose. That is forgotten. The result is that the member of the Bar has developed an inferiority complex and inferiority complex leads to frustration and frustration leads to a complete failure to achieve the purpose.

x x x

It is all right for a Judge of a High Court with a beautifully printed or typed record in front of him with a nice fan running over his head and the Court Hall perhaps air-conditioned also to keep the temper a little cooler. It is all right for him to say "I will take my own time to decide. I will reserve judgment and pronounce it three months after I have forgotten everything". But the mofussil Judges are expected to furnish statistical returns every two weeks, one week or ten days. They are put on their good behaviour and their efficiency is tested by statistical returns.

x x x

If you really believe in democracy and in the rule of law and in the dignity of the individual and in the nobility of the profession and in the independence of the Judiciary, let us recognise that Judiciary is not only the watchdog but the protector of the

Constitution. Anything that you do to undermine the prestige, the dignity, the respectability, the efficiency and the integrity of the Judiciary is a direct blow to democracy and the rule of law.

x x x

A day is not far-off when all people help themselves to extinguish themselves.

x x x

The leaders of the national struggle for independence the giants and the pioneers of that struggle were mostly lawyers. It was a fact and very properly a fact. Why was it that they are lawyers ? They are lawyers leaders of the national struggle because they had not only the intellect, they had not only the vision, they had not only the political insight but they had also the emotional exaltation. Therefore they were leaders and those leaders were learned and noble members of the Bar... They were all stalwarts in the profession and when they came into politics, politics became ennobled because noble members of the legal profession joined politics. Where has that nobility and that learning gone ? Today on account of the necessity arising from the struggle for existence, arising out of economic insecurity, arising out of the dire need to make both ends meet, the members of the Bar do not have that patience. They do not have the patience to become learned. The law degree course is anything but a course of learning now-a-days. You are not equipped at all when you passed the examination. You have got to learn everything after you join the Bar. But almost from the first moment we have joined the Bar, we are anxious to enquire how we are to catch the Judge and his attention and his judgment, how are we succeed in the case before him. You are not thinking of how to prepare your case what are the niceties of fact and the substitutes of law; how is it we present the case in such a manner that he is bound to decide in our

favour. That outlook is fast disappearing if it has not already disappeared. The litigant is also encouraging the new kind of outlook. Naturally when the litigant himself is driving you into that mode of thinking, you are also allowing yourself to be driven on. That is one particular tendency that is manifesting itself in recent times. The necessary consequence and corollary of that tendency is that without learning you want to succeed and when without learning you want to succeed, you cast-off the standards in the profession, you cease to be noble, the result is, there is neither learning nor nobility.

x x x

Advocacy is a fine art. There are rules of the game but there are no rules by which you learn the fine art. Example is better than precept. In the field of art one learns a little by precept you can learn more by example but ultimate you learn most by your own rules and methods consistent with your own temperament and taste. Advocacy is a peculiarly individual talent and experience.

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A strong memory is a *sine qua non* in the intellectual field. But it is not an unmixed blessing. Referring to it *Narasa Raju* says that “such photographic memory may prove to be an inconvenience and encumbrance on occasions when fresh, original and independent thinking is called for

x x x

If you examine the amendments of the Constitution from the beginning till now, there has not been one amendment to add to the rights of the people but only to curtail.

x x x

Government always relies upon an emergency or a crisis as a justification to increase taxes or invent new taxes. But even after the crisis is gone, the tax continues and there is no reduction.

x x x

Those were great days when I practised in the Madras High Court. The learning, the intellectuality, the incisive logic and the baffling subtlety were in abundance.

x x x

Constraints of space forbid more copious citation. *Narasa Raju* was not an arm chair intellectual living in an ivory tower utterly oblivious of the ground realities. He was a pragmatist to the hilt. That is why what he said almost half a century ago, holds good even today.

x x x

*Narasa Raju* was a rare confluence of intellectual incandescence, enchanting eloquence, stylistic elegance, Juristic eminence, ratiocinative excellence and expository brilliance of the highest order. We shall not the like of him again. He shines like the full moon among the Countless luminous stars in the legal firmament.

x x x

I earnestly appeal to the learned Advocate General and the Chairman and Members of the AP Bar Council to bring out in book form all the speeches and articles of *Narasa Raju* for the benefit of the present generation of lawyers who are not as fortunate as some of us who have seen and heard that legendary luminary.