

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

C.R.P.No.803 of 2015

ORDER:

Heard Sri P.Ramachandran, learned counsel for the petitioner. None appears for the respondent.

2. This Revision Petition is filed challenging the order dt.30-12-2014 in O.S.No.190 of 2007 of the Additional Senior Civil Judge, Ongole.

3. Petitioner herein is plaintiff in the above suit. The said suit was filed for specific performance of an oral contract allegedly entered into between himself and respondent in July 2004 under which, according to the petitioner, the respondent promised to sell an apartment to the petitioner.

4. Written Statement was filed opposing the suit claim.

5. Issues were framed and during the course of trial, defendant through D.W.1 sought to mark certain documents one of which was a certified copy of a construction agreement. Marking of the said document was opposed by the petitioner contending that it is unregistered, insufficiently stamped and also irrelevant.

6. The Court below went through the contents of the document and held that it is only a construction

agreement and rejected the contention of the petitioner that it is insufficiently stamped. It also rejected the contention of the petitioner that the said document is not essential for the purpose of proving the case of the respondent and it held that the respondent is at liberty to mark it to prove his defence.

7. Challenging the same, this Civil Revision Petition is filed.

8. Learned counsel for the petitioner contended that the deed in question is not a construction agreement but is in fact a partnership deed to which the respondent is a party and the said partnership deed envisages carrying on of a civil construction work among the parties to it and the said partnership deed is insufficiently stamped.

9. The contents of the said document do not indicate that the capital of the firm exceeds Rs.5,000/-. Although capital contribution of the parties is not mentioned therein specifically, it is stated that such contribution will be made as and when required according to the convenience and capacity of the partners on mutual agreement. Therefore, in my opinion stamp duty of Rs.300/- paid thereon is adequate since the capital of the partnership is not shown to be in excess of Rs.5,000/-.

Under Article 41-A (a) of the Indian Stamp Act, 1899, the stamp duty prescribed in such cases is only Rs.100/- where the capital of the partnership does not exceed

Rs.5,000/-.

10. As regards the contention of the learned counsel for the petitioner that the said document is irrelevant, I am of the view that it is not for the petitioner to dictate to the respondent what document he should rely on, to prove his case. If the Court below, after considering oral and documentary evidence, feels that the document in question is not an relevant piece of evidence, it may ignore it, otherwise it may even rely on it.

11. So, I do not find any merit in the Civil Revision Petition and the same accordingly dismissed. No costs.

12. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 30-06-2015

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