

`IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

CIVIL REVISION PETITION No.1511 of 2015

Between:

Yarramreddy Chandra Reddy,
S/o Sura Reddy

... Petitioner

And

Thumma Kaspa Reddy,
S/o Inna Reddy and another.

... Respondents

DATE OF JUDGEMENT PRONOUNCED: 31-07-2015

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

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| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgment? | Yes |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals? | Yes |
| 3. Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? | Yes |

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< Gist:

> Head Note:

! Counsel for the Petitioner: Sri G.V.S.Mehar Kumar

^ Counsel for the Respondent: None appeared

? Cases Referred:

NIL

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.....Respondents

Counsel for the Petitioner: Sri G.V.S.Mehar Kumar

Counsel for the Respondents: None appeared

The Court made the following:

ORDER:

This Civil Revision Petition arises out of order, dated 03.3.2015, in O.S.No.279 of 2008 on the file of the learned Junior Civil Judge, Piduguralla, Guntur District.

Initially, notices were ordered to the respondents. The postal covers sent along with the acknowledgments were returned with the endorsements "No such addressee in the Door Number. Returned to sender" and "left" in respect of respondent Nos.1 and 2, respectively. Later, this Court has permitted the learned counsel for the petitioner to

send notice to the counsel for the respondents appearing in the lower Court. The petitioner has, accordingly, served notice on the counsel and filed proof of service. Despite service of notice on their counsel, the respondents have not entered appearance.

I have heard Sri G.V.S.Mehar Kumar, learned counsel for the petitioner, and perused the record.

The respondents have filed the above-mentioned suit for permanent injunction restraining the petitioner from interfering with their possession of the suit schedule property. After closure of evidence on the respondents' side and during the course of evidence on the petitioner's side, the latter sought to mark documents, dated 02.02.1995 and 06.8.1985, in evidence. Document, dated 02.02.1995, is a purported partition list, which is unstamped and unregistered. Document, dated 06.8.1985, is an unregistered agreement of sale containing the recital of delivery of possession of the property to the petitioner.

As regards document, dated 06.8.1985, the lower Court has held that it contains a recital of delivery of possession of the property to the petitioner and is not registered. That it is hit by Section-17(1a) of the Registration Act, 1908 and accordingly, it is not admissible in evidence. The lower Court also held that the document is not admissible in evidence even for collateral purpose without registration and payment of proper stamp duty. The lower Court has, accordingly, held that the document can be admitted in evidence, subject to payment of stamp duty and penalty.

As regards document, dated 02.02.1995, the lower Court, after going through the recitals thereof, held that they clearly show that the possession of the property was being delivered to the petitioner on the day of execution of the document and that it also contains further recital that there will not be any further partition in future. Based on these recitals, the lower Court has concluded that the document proposed to be marked in evidence is not a partition list, but the same is a partition deed, which is unstamped and unregistered and hence, not admissible in evidence.

Though the learned counsel for the petitioner sought to impeach the correctness of this part of the order of the lower Court, he has not even filed a copy of the document, dated 02.02.1995, proposed to be admitted in evidence. Without perusing the said document, it is not possible for this Court to adjudicate on the correctness or otherwise of the findings of the lower Court in respect thereof. Hence, this Court has no option other than affirming the order of the lower Court to the extent of refusing to admit the document, dated 02.02.1995, in

evidence.

With regard to document, dated 06.8.1985, to the extent of the order of the lower Court holding that the same is not admissible in evidence unless it is registered and properly stamped, I do not find any error therein. However, no proper reasons have been assigned by the lower Court for not accepting the said document for collateral purpose, viz., proving the possession of the petitioner. The lower Court seems to be under a mistaken impression that the said document was insufficiently stamped. As rightly pleaded by the learned counsel for the petitioner till Article-6 of Schedule-(1)(A) of the Stamp Act was amended, the prescribed stamp duty for every agreement of sale was Rs.5/- and by A.P. Act 21 of 1995, the said Article was amended by prescribing different stamp duties depending upon the value of the property. Evidently, the aforesaid document was executed on 06.08.1985, i.e., much prior to the above-mentioned amendment and at the time of execution of the said document, the prescribed stamp duty was only Rs.5/- and a stamp duty of Rs.10/- was paid. Hence, the lower Court has overlooked this crucial aspect and erroneously held that the same can be admitted in evidence, subject to payment of stamp duty and penalty. To this extent, the order under revision is not sustainable and the same is, accordingly, set aside. The lower Court is directed to admit document, dated 06.8.1985, in evidence for collateral purpose only, without imposing any additional stamp duty and penalty.

In the result, the Civil Revision Petition is partly allowed to the extent indicated above.

As a sequel to disposal of the Civil Revision Petition, CRPMP.No.2038 2015 is dismissed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

31st July, 2015

Note:

LR copies to be marked.

B/o

DR