

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

CIVIL REVISIONPETITION NO.2108 OF 2015

Between:

RudraManikyalarao

... Petitioner

and

Bharat Petroleum Corporation Limited,
a Company Incorporated under Indian Companies Act,
rep. by its Principal Officer and Territory Manager.

... Respondent

SUBMITTED FOR APPROVAL:

-

-

DATE OF JUDGMENT PRONOUNCEMENT : 31st JULY,
2015

-

THE HON'BLE SRI JUSTICE SANJAY KUMAR

- | | | |
|----|--|--------|
| 1. | Whether Reporters of Local newspapers
may be allowed to see the judgment? | Yes/No |
| 2. | Whether the copies of judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3. | Whether their Lordship wishes to
see the fair copy of the judgment? | Yes/No |

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.2108 OF 2015

ORDER

This civil revision petition, under Article 227 of the Constitution, arises out of the order dated 25.03.2015 passed by the learned IV Additional District Judge, Tanuku, in O.S.No.36 of 2014. The said suit was filed by the respondent herein for specific performance of the agreement to lease dated 06.04.2006; consequential delivery of possession of the plaint schedule land; future interest and future damages; and for costs.

It appears that the trial Court took an objection that the draft lease deed dated 06.04.2006, of which specific performance was sought, was liable to be impounded for payment of deficit stamp duty. Thereupon, the parties were put on notice, but the order under revision reflects that only the respondent-plaintiff was heard as, despite opportunity, the defendant, the petitioner herein, failed to put-forth his arguments on this aspect.

The respondent-plaintiff contended before the trial Court that the document was only a formal agreement and that pursuant thereto, a regular lease deed was yet to be executed. It also placed reliance on the judgment of this Court in ***T.JAI SINGH V/s. PYAROKAUR***^[1]. Upon an overview of the draft lease deed dated 06.04.2006 and the law laid down by this Court, the trial Court came to the conclusion that the draft lease deed did not need to be stamped and accordingly admitted the

same in evidence without insisting on payment of stamp duty. Aggrieved thereby, the defendant in the suit filed the present revision.

Taking note of the submission made by Sri Sai Gangadhar Chamarty, learned counsel for the petitioner-defendant, that the respondent-plaintiff sought to rely upon the terms and conditions stipulated in the unstamped agreement and that the order passed by the trial Court was therefore legally unsustainable, this Court granted interim stay of further proceedings in the suit, being of the opinion that the aspect needed further examination.

Thereupon, the respondent-plaintiff entered appearance through Sri O.Manohar Reddy, learned counsel.

Heard.

Perusal of the subject draft lease deed dated 06.04.2006 reflects that an agreement was engrafted upon a paper affixed with two Rs.50/- adhesive stamps, wherein, under the first cause, it was recorded that the lessors shall grant and the lessee shall accept the lease of the stipulated land for the stipulated term at the stipulated rent with the stipulated escalation. The second clause stated that the lessors and the lessee shall enter into the covenants and conditions as per the draft lease deed attached thereto and signed by the parties for identification purpose only. The third clause stated that the lease should be duly executed and registered by the lessors and the lessee at the cost of the lessee. A schedule was appended to the said agreement and the indenture dated 06.04.2006 was annexed thereto. This annexure clearly had reference to the second clause stated *supra*. The obvious intention of the parties was that a regular lease deed would be executed thereafter and registered at the cost of the lessee, but the terms and conditions of the said lease would be as per the draft lease deed, which had been signed by the parties only for the purpose of identification. This draft lease deed therefore had no legal impact and was only a precursor to the actual lease deed which was to come into existence upon execution and registration.

In ***T.JAI SINGH¹***, this Court was concerned with a draft sale deed in a suit filed for specific performance thereof. The objection taken to the marking of the said draft sale deed was that deficit stamp duty and registration charges along with penalty would have to be paid thereon. This Court, upon considering the factual and legal position, held that the requirement of registration of a document would arise only upon the execution thereof and in a nascent form, the document cannot be said to be compulsorily registerable. Further, this Court held that Section 35 of the Stamp Act, 1899 would not be attracted as the true test would be whether on payment of deficit stamp duty, a document can fit into the description of the document under the relevant entry in Schedule I-A of the said Act. This Court opined that a draft sale deed did not figure anywhere in Schedule I-A and therefore, subjecting such document to stamp duty and penalty would be beyond the scope of the Stamp Act, 1899.

In the considered opinion of this Court, the observations and findings in ***T.JAI SINGH¹*** as regards a draft sale deed would apply *mutatis mutandis* to a draft lease deed also.

As stated *supra*, such a draft lease deed does not embody a lease in itself and is only the foundation for execution of a regular lease deed. The intention of the parties to this effect is clear from the three conditions stipulated in the agreement dated 06.04.2006. That being so, the draft lease deed was not subject to payment of stamp duty at all and the finding of the trial Court to that effect does not warrant interference.

The Civil Revision Petition is devoid of merit and is accordingly dismissed. Interim stay dated 12.06.2015 shall stand vacated. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

31st JULY, 2015

PGS

[\[1\]](#) 2014(5) ALD 755