

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

C.R.P.NO.611 OF 2015

ORDER :

Heard Sri Nimmagadda Satyanarayana, learned counsel for the petitioners and Sri M.Venkata Ramana Reddy, learned counsel for the 1st respondent.

This revision is filed questioning the action of the I Additional Junior Civil Judge, Chittoor, in marking the document said to be a unregistered Khararnama as Ex.A.10 in spite of an objection being raised by the learned counsel for the petitioners during trial that it is inadmissible on the ground of non-registration and also on the ground that it is insufficiently stamped.

On 13.11.2014, when the respondents sought to mark the said document during the course of evidence of PW.1, the Court below allowed it to be marked subject to objection raised by the learned counsel for the petitioners with regard to the admissibility of the same on the above grounds.

Learned counsel for the petitioners submits that such a course of action is contrary to law and that when an objection is raised about admissibility of a document during the course of trial on the ground that the same is inadmissible for want of registration and that it is insufficiently stamped, it is the duty of the Court to decide the same then and there and it cannot postpone the same till the final hearing of the suit. Reliance is placed on the judgment in **Shalimar Chemical Works Limited v. Surendra Oil and Dal Mills (Refineries) and others**^[1] wherein the Supreme Court held that the trial Court should not have 'marked' as exhibits the Xerox

copies of the certificates of registration of trade mark in the face of objection raised by the defendants therein. The Court held that this is not proper and that trial Court should have declined to take them on record as evidence and left the plaintiff to support its case by whatever means it proposed, rather than leaving the issue of admissibility of those copies open and hanging, by marking them as exhibits subject to objection of proof and admissibility. In **Golla Dharmanna v. Sakari Poshetty @ Wadoor Poshetty and others**^[2] this Court held that, as a matter of law in all cases where objection as to admissibility arises, the issue need not be kept hanging by the trial Court till final stage of the suit and the Court should decide the same as and when the said objection is raised.

In this view of the matter, the action of the Court below in marking the unregistered Khararnama filed by the respondents during the evidence of PW.1 as Ex.A.10 cannot be sustained. Therefore, the same is set aside and the Court below is directed to decide the objection raised by the petitioners as to the admissibility of the said document on the ground of it being not registered and also being insufficiently stamped, without postponing the same, to the time of judgment.

The revision petition is accordingly allowed. There shall be no order as to costs.

Pending miscellaneous petitions in this civil revision petition, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

21.08.2015
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THE HON’BLE SRI JUSTICE M.S.RAMACHANDRA RAO

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[2] 2013(5) ALD 490