

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

CIVIL REVISION PETITION No. 4632 OF 2014

ORDER:

The petitioners herein are the plaintiffs. They instituted this Revision in view of the orders passed by the learned Senior Civil Judge at Peddapuram on 30.07.2014 declining to mark the documents tendered by them for want of registration of those documents.

Heard Ms. S. Lakshmi Prameela, learned counsel for the petitioners and Sri S. Ganesh, learned counsel for the respondent.

The learned counsel for the petitioners would submit that the petitioners, who are the plaintiffs in the suit, have tendered two documents, which are dated 20.04.1980 and 10.04.1980 respectively, through which, the petitioners are claiming right, title and interest over land of an extent of Ac.1.50 cents, which land has been gifted to them towards '*pasupu kumkuma*'. When an objection was taken earlier, the Court, by its order dated 02.07.2011, sent those documents to the District Registrar of Stamps and Registration Department for impounding the same as no stamp duty has been paid thereon. The District Registrar thereafter imposed penalty and collected the stamp duty as well on those documents. Therefore, it is contended on behalf of the plaintiffs before the Court below and also before me that the two documents, having now suffered the stamp duty, are liable to be received in evidence.

Per contra, the learned counsel for the respondent would contend that if a transfer of title to the property had taken place, such a document requires compulsory registration under Section 17 of the Registration Act, 1908 and since the documents are not registered, they would still nonetheless be inadmissible in evidence.

The learned counsel for the respondent has drawn my attention to an order passed by me in C.R.P. No. 2222 of 2014, wherein, after reviewing the legal position enunciated in ***K.B. Saha and Sons (P) Ltd. v. Development Consultant Ltd.*** {(2008) 8 SCC 564}, it was categorically noted that a document, which is required to be registered, if unregistered, is not admissible in evidence, in view of the provisions

contained under Section 49 of the Registration Act, but however, if such a document is tendered for a collateral purpose, in accordance with the proviso to Section 49 of the 1908 Act, the said document may be received in evidence duly marking an endorsement on the face of that document that it is received for collateral purpose of establishing possession only, but however, such a document shall not be looked into for the purpose of establishing right or shares of the respective parties. In view of the settled principle of law that a document becomes receivable in evidence, in case it has already suffered the necessary stamp duty and the penalty imposed thereon, the bar contained under Section 35 of the Indian Stamp Act, 1899 alone gets overcome. So far as the requirement of compulsory registration in accordance with Section 17 of the 1908 Act is concerned, the said provision has got to be read along with Section 49 thereof. It renders a compulsory registerable document as admissible in evidence only for collateral purposes. The purpose for which the two documents are sought to be marked on behalf of the petitioners-plaintiffs in the instant case is not a collateral one but to establish their right and share in the immovable property itself. That being the main purpose, the documents in question are very rightly held as inadmissible in evidence for want of registration, by the trial Court.

I do not see any merit in this Civil Revision Petition and it is accordingly, dismissed. No costs.

Consequently, the miscellaneous applications, if any shall also stand dismissed.

NOOTY RAMAMOHANA RAO, J

02nd February 2015

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