

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.1138 of 2015

ORDER :

Heard Sri J. Prabhakar, counsel for petitioner; and
Sri K. Vinay Kumar, counsel for respondent.

2. This Revision is filed under Article 227 of the Constitution of India challenging the order dt.12.02.2015 in O.S.No.298 of 2012 on the file of II Additional District and Sessions Judge, Guntur, over-ruling an objection raised by petitioner/defendant in the said suit that an agreement of sale sought to be marked on behalf of respondent/plaintiff, was not adequately stamped.

3. The counsel for petitioner contended that the Court below failed to see that Clause (B) of Article 6 of Schedule 1-A of the Indian Stamp Act, 1899 (for short, 'the Act') is applicable to the document-in-question; therefore, the stamp duty paid thereon is inadequate; and it ought not to have been allowed to be admitted and received in evidence by the court below.

4. On the other hand, the counsel for respondent contended that no argument was raised by petitioner in the Court below as to the applicability of Clause (B) of Article 6 of Schedule 1-A of the Act and the only contention raised was with regard to Article 47 of Schedule 1-A, and this objection now being raised by the

counsel for petitioner, cannot be entertained.

5. The counsel for petitioner concedes that the argument on the basis of Clause (B) of Article 6 of Schedule 1-A was not raised in the Court below and that Article 47-A would not be attracted.

6. Since no contention regarding applicability of Clause (B) of Article 6 of Schedule 1-A of the Act was raised in the Court below, I am of the opinion that the impugned order deserves to be set aside and it is a fit case to direct the Court below to consider the said issue after hearing both sides, and pass a fresh order.

7. In this view of the matter, the order dt.12.02.2015 in O.S.No.298 of 2012 on the file of II Additional District and Sessions Judge, Guntur is set aside and the Court below is directed to decide whether the stamp duty paid on the agreement of sale in question is adequate or not, taking into account Clause (B) of Article 6 of Schedule 1-A of the Act, after hearing both sides and pass a fresh order. The said exercise shall be completed within a period of six (06) weeks from the date of receipt of a copy of this order.

8. The Civil Revision Petition is disposed of with the above direction. No order as to costs.

9. As a sequel, miscellaneous petitions pending, if

any, in this Revision shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 05.08.2015

Ndr/*