THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.1957 OF 2015

ORDER:

The Civil Revision Petition is filed against the order dated 02.04.2015, passed by the Principal Junior Civil Judge, Adoni in IA.No.125 of 2015 in OS.No.18 of 2015, wherein the objection raised by the respondent herein was upheld by the Court below stating that the agreement dated 08.08.2008 cannot be marked unless sufficient Stamp Duty is paid thereon.

Learned counsel for the petitioner submits that the revision petitioner wants to mark the document in question i.e. agreement dated 08.08.2008, for collateral purpose, but the Court below without considering the same upheld the objection raised by the respondent for marking the document. He relied on the Judgment in ***Tirunam Gurappa v. Naidu Ramana Reddy***[1] wherein this Court held that even though possession is delivered by virtue of the document it is considered as agreement of sale and the same can be marked.

On the other hand, learned counsel for respondent states that after the impugned order is passed, petitioner filed IA.No.714 of 2015 for impounding the agreement dated 08.08.2008. He also contends that the aforesaid Judgment relied on by the petitioner has no application with the facts of the present case since the explanation-I to Article 47-A of Schedule-I-A of the Indian Stamp Act, 1899 (*for short 'the Act')* was inserted in the year 1995 i.e. subsequent to the date of Judgment and the same is not disputed by the learned counsel for the petitioner.

The Court below, while construing the disputed document is an agreement with possession, rightly held that the same cannot be marked in the evidence unless the petitioner pays the stamp duty as envisaged under Article 47-A of Schedule I-A (Explanation-I) of the Indian Stamp Act, 1899.

Explanation-I in Articles 47-A of Schedule I-A of the Stamp Act reads as follows;

> *"Explanation-I*
>
> *An agreement to sell followed by or evidencing delivery of possession of the property agreed to be sold shall be chargeable as a 'Sale' under this Article: Provided that, where subsequently a sale deed is executed in pursuance of an agreement of sale as aforesaid or in pursuance of an agreement referred to in Clause (b) of Article 6, the stamp duty, if any, already paid or recovered on the agreement of sale be adjusted towards the total duty leviable on the sale deed."*

By way of an amendment, Explanation-I & II were inserted in Article 47-A of Schedule I-A of the Act with effect from 01.04.1995.

In view of the above, as per Section 35 of the Indian Stamp Act, 1899, the document cannot be admitted into evidence unless petitioner pays stamp duty and penalty as per the said explanation. In view of the same, I do not find any infirmity or illegality in the orders passed by the Court below.

Accordingly, the CRP is dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the Civil Revision Petition, shall stand closed.

A.RAJASHEKER REDDY, J

19.06.2015
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[1] 1992(1) ALT 628