HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.28087 OF 2012

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader.

The issue arises under the Indian Stamp Act 1899 (for short 'the Act'). The petitioner assails proceeding No.E3/262/2011 dated 28.05.2011 of the 1st respondent. Through the impugned proceeding, the 1st respondent determined and called upon the petitioner to pay a sum of Rs.9,39,708/- for impounding the document i.e. sale agreement dated 11.10.1996.

The petitioner is the plaintiff in O.S.No.16 of 1998 in the Court of Senior Civil Judge at Mahabubabad. The document dated 11.10.1996, it is urged, is the suit document. At the time of marking the suit document, objection under the Act was taken. On the application filed by the petitioner, the document was sent to the Revenue Divisional Officer, Mahabubabad for impounding. Through certificate No.F/990/2009 dated 17.11.2009, the Revenue Divisional Officer arrived at the total stamp duty payable by the petitioner as Rs.4,181/-. While steps were taken to pay the difference of stamp duty and get the document impounded, the respondents/defendants in the suit objected to the jurisdiction of the Revenue Divisional Officer to impound the agreement dated 11.10.1996. This led to initiation of further action before the 1st respondent for determination of stamp duty. Through the impugned proceedings as already noticed, a sum of Rs.9,.39,708/- has been determined and demanded. Hence, the writ petition.

The learned counsel for the petitioner assails these proceeding primarily on two grounds, namely, that when the same document is presented for impounding by the Revenue Divisional Officer, a reasonable sum of Rs.4,181/- is arrived at towards difference of stamp duty and penalty for impounding the suit document. The same document is sent to the 1st respondent, the amount is enhanced to a fabulous sum of Rs.9,39,708/-. *Prima facie,* it appears to be arbitrary. The determination of stamp duty and penalty are based upon the report dated 05.02.2011 said to have been submitted by the Sub Registrar, Mahabubabad. It is further contended that the petitioner is ignorant of the report dated 05.02.2011. The manner or details of consideration are absent in the proceeding. The further submission is that before issuing the impugned proceeding, the 1st respondent has not afforded any opportunity on any of the aspects which fell for consideration and straightaway conclusions have been drawn which have serious implications in impounding the suit document. Therefore, it is contended that the proceedings are violative of principles of natural justice.

After perusing the original record, the learned Government Pleader fairly states that the 1st respondent before issuing the impugned proceedings has neither made available the report of Sub Registrar dated 05.02.2011 nor afforded any opportunity to the petitioner. Having regard to the admitted position, without going into the other contentions on the mode and manner of assessing stamp duty payable by the petitioner, the impugned proceeding is set aside and the matter is remanded to 1st respondent for fresh consideration, within a period of eight weeks from the date of receipt of a copy of this order. The 1st respondent is directed to issue notice and copy of communication dated 05.02.2011 to the petitioner to enable the petitioner to effectively represent the matter before the 1st respondent.

The writ petition is allowed and the matter is remanded to the 1st respondent. No order as to costs.

As the petitioner is plaintiff in O.S. No.16 of 1998 in the Court of Senior Civil Judge at Mahabubabad, if the trial is proceeded in the absence of suit document, the petitioner suffers irreparable loss. Further, when the document is receiving attention of the 1st respondent, it is in the fitness of things that stay of trial in O.S. No.16 of 1998 is granted till the communication is received from the 1st respondent.

Miscellaneous petitions pending, if any, in the writ petition shall stand closed.

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S.V.BHATT, J

Date:23.02.2015
Stp