

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

C.R.P.Nos.5561 of 2012 and 346 of 2015

COMMON ORDER :

These two Civil Revision Petitions arise between the same parties and out of the same suit. Therefore, they are being disposed of by this common order.

2. Petitioner in both the Revisions is the plaintiff in the above suit. The said suit was filed for declaration that the petitioner is absolute owner of the suit schedule property and for a consequential relief perpetual injunction restraining the respondents from interfering with the alleged peaceful possession and enjoyment of the suit schedule property and for some other reliefs.

3. The petitioner, during the course of his evidence, intended to mark a document dt.25.12.1970 alleging that it is an agreement of sale.

4. Counsel for the respondents 1 and 2 objected to its marking contending that it is a sale deed because there is a recital that consideration amount was paid and possession was already delivered and that it is inadequately stamped.

5. The Court below relying on the judgment in ***B.Ratnakumari v. G.Rudramma***^[1] passed order dt.11.11.2011 holding that the document appears to be a sale deed and that stamp duty and penalty needs to be paid accordingly. It therefore directed to send the document to District Registrar for impounding.

6. Challenging the same, CRP.No.5561 of 2012 is filed.

7. Thereafter, an application I.A.No.786 of 2012 was moved by the respondents to direct the petitioner to pay the stamp duty and penalty as per notice of the District Registrar dt.02.07.2012.

8. According to the said notice, the District Registrar, Ongole

decided that under Indian Stamp Act, 1899 the document in question is chargeable with stamp duty of Rs.53,750/- and a penalty also requires to be paid thereon.

9. By order dt.24.09.2012, the Court below had held that the petitioner had simply requested the Court to call for the document and had not informed the Court about the District Registrar, Ongole issuing a notice dt.02.07.2012 and therefore, the Court below ordered to proceed further before the District Registrar, Ongole only.

10. Challenging the same, C.R.P.No.346 of 2015 is filed.

11. Counsel for the petitioners contended that the Court below had erred in relying upon the judgment in **B.Ratnakumari's** case((1 supra) which dealt with Explanation I to Article 47-A of Schedule IA of the Indian Stamp act, 1899; that the said provision of law had been introduced by A.P. Amendment Act No.21 of 1995 with effect from 01.04.1995 only; the said provision has no retrospective operation; that a Division Bench of this Court in **Mediya Anasuyamma v. Choppela Lakshamma**^[2] had categorically held that for levying stamp duty, date of execution of the document is relevant, and not presentation of the document in the Court and that the Amendment to the Indian Stamp Act, 1899 has no retrospective operation.

12. I find considerable force in the said submission.

13. Counsel for the respondents 1 and 2 also did not dispute this legal proposition.

14. In this view of the matter, I am of the opinion that serious error of jurisdiction had been committed by the Court below in treating the document dt.25.12.1970 as a sale deed by applying Explanation I to Article 47-A of Schedule IA of the Stamp Act, 1899, which was introduced only w.e.f. 01.04.1995 and which has no retrospective

operation.

15. Therefore, both the orders dt.22.11.2011 and dt.24.09.2012 in O.S.No.3 of 2008 and in I.A.No.786 of 2012 in O.S.No.3 of 2008 respectively, of the V Additional District Judge, Ongole are set aside and the matter is remitted back to the Court below.

16. It is the contention of the counsel for the respondent that the document in question is actually a sale deed and Article 20 of the Indian Stamp Act, 1899 is attracted to it. This contention is disputed by the counsel for the petitioner.

17. The Court below shall go into this aspect of the matter and decide which article in Schedule I-A of the Indian Stamp Act, 1899 is attracted to the document in question and decide the same after hearing both sides in accordance with law within a period of four (04) weeks from the date of receipt of a copy of this order. Since the suit is an old suit, the Court below shall also expeditiously dispose of the suit within a period of six (06) months from the date of receipt of a copy of this order.

18. With the above direction, both the Civil Revision Petitions are allowed. There shall be no order as to costs.

19. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

07th September, 2015.

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[\[1\]](#) 1999(6) ALT 59 DB

[\[2\]](#) AIR 1992 AP 183