

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.706 of 2015

ORDER :

This Revision is filed under Article 227 of the Constitution of India questioning the action of the Senior Civil Judge, Gajuwaka, Visakhapatnam District in marking an agreement of sale dt.03.02.2008 allegedly executed by defendants in O.S.No.3 of 2011 in favour of respondent nos.1 to 3/plaintiffs herein on 25.09.2014, after receiving the affidavit in lieu of chief-examination of PW.1.

2. The petitioner herein is the 2nd defendant in the suit.

3. The counsel for petitioner contends that the consideration mentioned in the document is Rs.31 lakhs. Therefore, the document has to be treated as a sale deed since Explanation 1 to Article 47-A of Schedule 1-A to the Indian Stamp Act, 1899, is attracted.

4. A reading of the said document does not show that any possession was delivered under the said document. The respondent nos.1 to 3 in the plaint have also not pleaded that possession was delivered to them under the said agreement of sale and, in fact, they sought relief of delivery of possession in the suit.

5. In this view of the matter, I am of the opinion that

Explanation 1 to Article 47-A of Schedule 1-A of the Indian Stamp Act, 1899 cannot be said to be attracted, and even if the consideration mentioned in the document is Rs.31 lakhs, it cannot be treated as a sale deed. No doubt, the said agreement of sale was executed on Rs.50 Stamp paper, but the Court below admittedly collected Rs.550/- as penalty on 27.09.2014, as a condition precedent to allow the document to be marked, as Ex.A.2.

6. Therefore, I do not find any merit in the contention of petitioner that the Court below should not have marked the said document as Ex.A.4 on the plea that it is insufficiently stamped.

7. The Civil Revision Petition is without any merit, and it is accordingly dismissed. No order as to costs.

8. Miscellaneous applications, pending if any in this Revision, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 03.09.2015

Ndr/*