

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

CIVIL REVISION PETITION NO. 202 OF 2015

ORDER:

Heard learned counsel for petitioners. Petitioners are defendants in O.S.No. 267 of 2008 filed by respondents 1 to 3 seeking a direction for specific performance of the agreement of sale dated 5.7.2007. In the said suit, the petitioners, who are the defendants, filed an application in I.A.No. 1123 of 2014 impugning the agreement of sale deed dated 5.7.2007 on the ground that the said agreement requires stamp duty and penalty. The second respondent filed counter stating that the agreement is not coupled with possession and the agreement was reduced in writing on stamp paper and hence, there was no need to pay any deficit Court Fee and Penalty. The second respondent further stated that the agreement was legally enforceable document.

The trial Court after considering the rival contentions submitted on either side dismissed the application by holding that the agreement of sale deed dated 5.7.2007 does not require payment of any deficit stamp duty and penalty. Challenging the same, the present Civil Revision Petition is filed.

The order of the trial Court discloses that the petitioners placed reliance on ***Ponnapola Seetha Ramaiah Vs. Sanagala Sreenivasulu***, and the same was held not applicable.

The trial Court placed reliance on the decision reported in ***Dhumthi Ekambareswarappa Vs. T. Shambulingappa and another*** and held as follows:

“The facts and circumstances of the present case on hand are squarely applicable to the present case on hand, because the recitals of the agreement of sale dated 5.7.2007 nowhere reveals the possession of the schedule property to the respondents 1 to 3/plaintiffs. Moreover, the petitioners/defendants 1 to 3 in their written statement categorically stated that they never parted with the possession of the schedule property.

In view of my foregoing reasons and discussion, agreement of sale dated

5.7.2007 is not liable for Stamp Duty and Penalty etc., as such, the petition on hand is not maintainable under law and liable to be dismissed.”

In view of the same, the present Civil Revision Petition is misconceived and accordingly the same is dismissed. As a sequel thereto, miscellaneous petitions, pending if any, shall stand closed. There shall be no order as to costs.

A. RAMALINGESWARA RAO, J

DATE: 2.11.2015

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