

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

C.R.P.No.1772 of 2013

ORDER :

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order 20.09.2012 in O.S.No.574 of 2007 of the IX Additional District and Sessions Judge (FTC), R.R. District at L.B.Nagar in allowing the respondents to mark two development agreements dt.11.08.2002 and 21.11.2002 in the evidence of the respondents through PW1.

2. At the time when the said documents were sought to be marked, an objection was raised by the petitioner that they are inadequately stamped and they also require registration and are inadmissible in evidence.

3. The respondents however submitted that they are being filed only for collateral purpose to prove that there were certain transactions prior to the suit agreement of sale and no relief is being claimed on the basis of the said documents.

4. By the impugned order, the Court below permitted the respondents to exhibit the said two documents for the limited purpose of showing that prior to the said agreement there were agreements between the respondents and the petitioner.

5. Counsel for the petitioner contended that both the documents are inadequately stamped and under Section 35 of the Indian Stamp Act, 1899, there is an absolute bar to receive these documents in evidence for any purpose whatsoever and the Court below had ignored the said provision of law and allowed the documents to be marked, even for the alleged collateral purpose.

6. Section 35 of the Indian Stamp Act, 1899 insofar as it is relevant states:

“Sec.35 — Instruments not duly stamped inadmissible in evidence, etc.—No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped.”

7. A reading of the above provision clearly indicates that an instrument chargeable with duty, if it is not duly stamped, is prohibited for being admitted in evidence for any purpose by any person.

8. Therefore, the Court below was not right in allowing the two development agreements dt.11.08.2002 and 21.11.2002 to be received in evidence on behalf of the respondent through PW1 for the alleged collateral purpose of proving prior transactions.

9. Counsel for the respondents could not place any other provision or precedent permitting insufficiently stamped documents to be received in evidence for collateral purpose.

10. In this view of the matter, the impugned order cannot be sustained.

11. Accordingly, this Civil Revision Petition is allowed. Order dt.20.09.2012 in O.S.No.574 of 2007 of the IX Additional District and Sessions Judge (FTC), R.R. District at L.B.Nagar is set aside. However, this order will not preclude the respondents from offering to pay the adequate stamp duty and penalty thereon in order to enable the said documents to be received in evidence and if such a request is made within a period of two (02) weeks from the date of receipt of copy of this order, the same shall be considered by the Court below in accordance with law within a period four (04) weeks there from. There shall be no order as to costs.

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

M.S.RAMACHANDRA RAO, J

07th September, 2015.
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