**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD**
**FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH**

* * * *

**WRIT PETITION No.26647 of 2015**

**BETWEEN**

Bagam Venkateswara Rao.

**... PETITIONER**

**AND**

The State of Telangana, Rep. by its Principal Secretary, Revenue Department, Secretariat, Hyderabad and others.

**...RESPONDENTS**

DATE OF JUDGMENT PRONOUNCED: 25.08.2015

**THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR**

| | | |
|---|---|---|
| 1. | Whether Reporters of Local newspapers may be allowed to see the Judgments? | No |
| 2. | Whether the copies of judgment may be marked to Law Reporters/Journals? | No |
| 3. | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | No |

**ORDER**:

Heard learned counsel for the petitioner and learned Government Pleader.

2. Petitioner relied upon an agreement of sale dated 01.12.2006 in his favour and filed O.S.No.308 of 2009 before the Senior Civil Judge, Khammam. Since the said document was relating to an open plot, which was agreed to be purchased by the petitioner for a fixed consideration of Rs.3,00,000/-, the said agreement was executed on Rs.100/- non-judicial stamp paper. When the petitioner claimed rights on the basis of the said agreement in the civil suit, referred to above, during examination of P.W.1, counsel for the fourth respondent herein objected to the admissibility of the said document on the ground that it is not properly stamped. Petitioner, therefore, filed an application, I.A.No.871 of 2014 under Sections 33 and 40 of the Indian Stamp Act seeking to refer the said agreement of sale to the Collector/District Registrar for assessment and collection of deficit stamp duty.

By order dated 27.03.2015, the Court below observed in para 7 that "…*that the document can be sent to the Collector/District Registrar for the purpose of assessment and collection of stamp duty and penalty. Accordingly I hold on the point that the petitioner/plaintiff is entitled to the relief of sending the agreement of sale, dt. 01.12.2006 to the Collector/District Registrar, as prayed for.*"

3. Accordingly, the said document was sent to the District Registrar, Khammam and under his notice No.G1/850/2015 dated 07.07.2015 assessed the stamp duty payable at Rs.27,000/- and levied penalty three times over the aforesaid amount i.e. Rs.81,000/- and demanded the petitioner to pay Rs.1,08,000/-. The said notice was followed by final notice dated 28.07.2015, impugned herein, wherein the District Registrar reduced the penalty to two times taking into consideration stamp duty of Rs.18,000/-

and penalty of Rs.54,000/- and demanded the petitioner to pay Rs.72,000/-.

4. It is evident from the facts of the case that there was no intention on the part of the petitioner to evade the stamp duty of a bonafide transaction on Rs.100/- non-judicial stamp paper by recording the agreement of sale therein. When the said document was produced in the Court below, petitioner himself requested that the document be sent to the Collector/District Registrar for assessment. While the petitioner does not dispute the assessment by the District Registrar, in the present writ petition the penalty levied alone is questioned and strongly relied upon a decision of this Court in

**C.V. MANOHARAN v. GOVERNMENT OF ANDHRA PRADESH**[1] wherein on similar consideration, this Court reduced the penalty to one time the deficit stamp duty.

5. In the present case also, it is evident that though discretion is vested with the District Registrar, exercise thereof in a reasonable manner is what is expected by the statute. Since the present case also demonstrates that there is no deliberate evasion of stamp duty by the petitioner, hence, in my view, the aforesaid principle applies to the present case also. The impugned order is, therefore, modified directing the third respondent to collect deficit stamp duty with one time penalty from the petitioner and thereafter, endorse the same, accordingly,
on the document and return the same to the civil Court.

The writ petition is disposed of. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

August 25, 2015
DSK

---

[1] 2013 (3) ALT 138