

**THE HON'BLE SRI JUSTICE K.C.BHANU**

**CIVIL REVISION PETITION No.5022 OF 2014**

**ORDER:**

The Civil Revision Petition is directed against the order, dated 17.12.2014, in I.A.No.1651 of 2014 in O.S.No.93 of 2011 on the file of the Senior Civil Judge, Mangalagiri, whereunder and whereby, petition filed by the petitioner herein/defendant No.1 under Order VIII Rule 4 (3A) and under Section 151 of the Code of Civil Procedure, 1908 to receive the documents listed in the accompanying list therein for the purpose of marking them, was allowed in part.

2. Respondent No.1/plaintiff filed the aforementioned suit against petitioner No.1 herein and respondent Nos.2 and 3 herein/defendants for partition of the suit schedule property. Pending suit, defendant No.1 filed the aforementioned Interlocutory Application for receiving certain documents mentioned therein and the same was allowed in part by not receiving document No.1 – partition list on the ground that the same cannot be marked as it requires registration as per the provisions of the Registration Act, 1908 (for short, “the Act”). Challenging the same, defendant No.1 filed the present Revision Petition.

3. Learned counsel for the petitioner/defendant No.1 contended that the document in question may be received as evidence for collateral purpose even though it is not registered.

4. On the other hand, learned counsel for respondent No.1/plaintiff contended that a partition list is compulsorily registerable under Section 17 of the Act and therefore, the trial Court rightly excluded the said document from marking and that order

needs no interference by this Court and hence, he prays to dismiss this Revision Petition.

5. No doubt, when a document is compulsorily registerable and it is not registered, that cannot be received as an evidence for the purpose of proving primary aspect of the case. However, that unregistered document can be received as evidence for collateral purpose in terms of Section 49 of the Act. Then, Section 49 of the Act is subject to control by Section 35 of the Indian Stamp Act, 1899, which says that a document, unless stamp duty and penalty is paid, cannot be received for, as evidence, for any purpose. Therefore, the document in question can be received on payment of stamp duty and penalty, but receipt of the said document is subject to proof, relevancy and admissibility.

6. With the above observation, the Civil Revision Petition is allowed. There shall be no order as to costs. Miscellaneous petitions pending, if any, in this Civil Revision Petition shall stand closed.

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**JUSTICE K.C.BHANU**

Date: 27.2.2015  
AMD

**THE HON'BLE SRI JUSTICE K.C.BHANU**

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**CIVIL REVISION PETITION No.5022 OF 2014**

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**DATE:27.02.2015**

**AMD**