HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION No.5142 of 2015

ORDER :

This civil revision petition is filed under Article 227 of the Constitution of India, by defendant No.3 in the suit in O.S.No.190 of 2014 on the file of XVII-Additional Senior Civil Judge, City Civil Court, Hyderabad, aggrieved by order, dated 08.10.2015, passed in I.A.No.640 of 2015.

2. The suit in O.S.No.190 of 2014 was originally filed by respondent No.1 herein, against respondents 2 and 3. In the said suit, prior to the petitioner herein coming on record by way of implead petition, a document under Ex.A-3, titled as "original memorandum of past oral gift (Hiba)", dated 20.02.2007, was marked. After the petitioner was permitted to come on record, he filed I.A.No.640 of 2015 to eschew Ex.A-3 from evidence, as the said document was not stamped as required under the Indian Stamp Act, 1899 and not registered under the Registration Act, 1908. The Court below has rejected the said application. Hence, this revision.

3. With regard to the grievance of petitioner in this revision, Sections 35 and 36 of the Indian Stamp Act, 1899, are relevant. As per Section 35 of the Act, the instruments which are not duly stamped, are inadmissible in evidence. As per Section 36 of the Act, if an instrument

has been admitted in evidence, such admission shall not, except as provided under Section 61 of the Act, be called in question in any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

4. This is a peculiar case, where, the petitioner was not on record at all when the document under Ex.A-3 was marked. In that view of the matter, there was no occasion for him to raise any objection with regard to admissibility of such document either on the ground of non-compliance of the provisions of the Indian Stamp Act or the Registration Act. In that view of the matter, this Court is of the view that if any objections are there to the petitioner on Ex.A-3, the same can be considered at the time of disposal of the suit. Otherwise, he will be deprived of the opportunity of raising objection with regard to admissibility of document, which was admitted before his coming on record.

5. For the aforesaid reasons, this revision petition is disposed of, permitting the petitioner to raise objections with regard to the requirement of paying stamp duty and registration of Ex.A-3, and if any such objections are raised, the same shall be considered on merits. No costs.

Pending miscellaneous applications, if any, shall stand closed.

R. SUBHASH REDDY, J

18th December 2015

ajr