

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

CR No. 1504 of 2015

Date of decision:- 2.3.2015

Navneet and anr

Petitioners

vs.

subhash and ors

Respondent

Present: Mr. Tanmoy Gupta, Advocate.

M.M.S.BEDI,J.

Vide impugned order dated 5.1.2015, the plaintiff-respondents have been permitted to deposit stamp duty on the agreement of sale, which is an apple of discord between the parties.

Counsel for the petitioners has vehemently contended that the application of the plaintiff- respondents for permitting to deposit the stamp duty has caused serious prejudice to the defendant- petitioners as inadmissible document has been permitted to be taken on record.

Counsel for the petitioner has placed reliance on **Jupudi Kesava Rao vs. Pulavarthi Venkata Subbarao and ors AIR 1971 SC 1070.**

Counsel for the petitioners submits that any instrument on which duty is chargeable, cannot be permitted to be taken on record as insufficiency of stamps affixed on the documents, will make the agreement of sale inadmissible.

I have heard counsel for the petitioners and considered the judgment cited by him. Counsel for the petitioners has not been able to satisfy this court that the instrument, on which the permission to deposit the stamp duty has been granted, is an instrument on which duty is chargeable.

I have considered the facts and circumstances of the case. The petitioners had raised a legal objection at the initial stage at the time of the production of the evidence. Without expression of any opinion whether the duty is chargeable on the said instrument or whether the said document required affixation of stamps for the purpose of duty, I am of the considered opinion that the objection raised by the defendant-petitioners regarding insufficiency of the stamp duty, will entitle them to raise this plea at the time of final stage of the suit regarding relevance, admissibility and authenticity of the document. The impugned order dated 5.1.2015 will not, in any manner, prejudice the right of the petitioners to question the legality, admissibility, relevance or the mode adopted to prove the same at the time of final stage of the suit. It is not out of place to observe here that the counsel for the petitioners has submitted that only a photocopy of the agreement of sale has been placed on record. It appears that pertaining to the same instrument an FIR has been registered and the original document is with the investigating agency. The trial court, after summoning the police official has taken a copy of the agreement of sale on record. It will not be appropriate for this court to express any opinion regarding the copy of the instrument

produced on record. The right of the petitioners to challenge the legality, admissibility and mode to prove, will not be prejudiced in any manner and it will be open to the petitioners to raise all the pleas pertaining to the said document at the time of final hearing.

Counsel for the petitioners has also placed reliance on **Harion Agrawal vs. Prakash Chand Malviya 2008(1) Civil Court Cases 64(SC)**, in support of his contention that on account of insufficiently stamped document, the photocopy cannot be impounded on record and it is only the original document, which could be impounded. I have considered the said judgment. The facts of the said judgment are not applicable to the facts of the present cases as the original agreement of sale in dispute had been produced before the court through the police official as the original document is part of the criminal file.

In view of the rights of the petitioners having been safeguarded, to be considered at the final stage of the suit, no ground is made out to interfere in the impugned order.

Dismissed.

March 2 , 2015
TSM

(**M.M.S.BEDI**)
JUDGE