

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

WRIT PETITION No.11667 OF 2016

ORDER:

The petitioner had questioned the proceedings dated 21.12.2015 of the 2nd respondent determining that the document forwarded to him by the III Additional Senior Civil Judge, Vijayawada, in O.S.No.789 of 2009 attracts stamp duty of Rs.2,29,350/- and also penalty of an equal amount.

2. Prior to the passing of the impugned proceedings, there was a notice issued to the petitioner on 28.09.2015 by the 2nd respondent proposing to assess the stamp duty at the above rate.

3. The petitioner filed objections before the 2nd respondent on 16.11.2015 objecting to the said assessment and contending that the deficit stamp duty is only Rs.52,140/- and not Rs.2,29,350/- as proposed by the 2nd respondent.

4. The objections dated 16.11.2015 filed by the petitioner were received by the 2nd respondent and the petitioner obtained endorsement on the same date.

5. But in the impugned proceedings dated 21.12.2015, the 2nd respondent stated that the petitioner had not appeared before him even though the notice was received by her.

6. Learned counsel for the petitioner states that having received the petitioner's objections dated 16.11.2015, it is not open to the 2nd respondent to take the said stand.

7. Learned Government Pleader for Revenue is unable to dispute the fact that the petitioner had submitted objections on 16.11.2015 to the 2nd respondent, in view of the acknowledgment

stamp on the office copy - Ex.P6 of the said objections filed by the petitioner. Therefore, the impugned proceedings dated 21.12.2015 cannot be sustained.

8. The impugned proceedings are accordingly set aside and the matter is remitted back to the 2nd respondent to pass a reasoned order afresh after considering the petitioner's explanation/objections dated 16.11.2015 to the show cause notice dated 28.09.2015 issued by the 2nd respondent and communicate his decision thereon to the petitioner. This exercise shall be done within eight weeks from the date of receipt of a copy of this order.

9. The writ Petition is accordingly allowed. There shall be no order as to costs.

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

M.S.RAMACHANDRA RAO, J

Date:11.04.2016.
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