THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

CIVIL REVISION PETITIN No.5074 of 2015

ORDER:

This Revision is preferred by the defendant in the suit. The respondent/plaintiff filed I.A.No.477 of 2015 in O.S.No.197 of 2014, under Order XIII Rule 8 C.P.C. seeking a direction to send the document, a simple sale deed dated 13.08.1976 to the District Registrar, Registration and Stamps, Rangareddy for impounding and for the necessary collection of the stamp duty and penalty thereon. That application is liable to be entertained in terms of and in accordance with Section 33 of the Indian Stamp Act, 1899 which reads as under:

> 33. Examination and impounding of instruments:
>
> (1) Every person having by law or consent of parties authority to receive evidence, and every person in charge of a pubic office, except an officer of police, before whom any instrument, chargeable, in his opinion, with duty, is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.
>
> (2) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in India when such instrument was executed or first executed:
>
> Provided that--
>
> (a) nothing herein contained shall be deemed to require any Magistrate or Judge of a criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898 (5 of 1898);
>
> (b) in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.
>
> (3) For the purposes of this section, in cases of doubt,--
>
> (a) the State Government may determine what offices shall be deemed to be public offices; and
>
> (b) the State Government may determine who shall be deemed to be persons in charge of public offices.

In view of the provision contained in Section 33 of the Indian Stamp Act, 1899 (referred supra), it is imperative that any document, which cannot be admitted in evidence for want of proper stamp duty and registration can be impounded at the request of the party producing the same and that exactly what has been done in the instant case. Therefore, the penalty, if any, that one will have to suffer by virtue of the impounding of sada sale deed dated 13.08.1976 is to the account of the plaintiff but not to that of the defendant in the suit, who is the petitioner herein. Therefore, in principle, there cannot be any objection for the impounding of the document. However, it goes without saying that merely because a particular document is impounded, the Court is not precluded from examining it's relevancy and admissibility in evidence. The petitioner herein, who is a defendant, is entitled to raise his objections before the Court below, at the time when it is sought to be admitted in evidence and the same, I am sure, will be taken into account and consideration and dealt with in accordance with law.

Therefore, the revision is dismissed. No costs.

The miscellaneous applications, if any shall also stand closed.

JUSTICE NOOTY RAMAMOHANA RAO

22.01.2016
Ksp