

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Civil Revision Petition No. 3474 of 2016

ORDER:

In the suit O.S.No.91 of 2009, pending on the file of the Junior Civil Judge, Nalgonda for the relief of permanent injunction, maintained by the sole plaintiff against the two defendants, in respect of the plaint schedule property, after completion of the evidence of plaintiff while proceeding with the evidence of defendants, chief affidavit of 1st defendant as stated filed, it is while taking the evidence in chief and while marking the documents viz; so called unregistered and unstamped or not duly stamped alleged sale deed, objection raised by the plaintiff and the Court answered by the docket order dated 27.02.2006 even by saying as per the expression of Apex Court in **Bondar Singh Vs. Nihal Singh**^[1] of any conveyance must be even by a sale deed duly stamped and registered and even not admissible in evidence from want of registration but it can be considered as to nature of possession for collateral purpose.

2. Aggrieved by the above docket order dated 27.02.2006 in O.S.No.91 of 2009, the plaintiff preferred the present revision with the contentions that the trial Court not properly appreciated the objection of the plaintiff that the alleged document, sought for marking by the defendants, is completely an unstamped and unregistered one and can not be admitted in evidence and the observation of the trial Court that the said document can be looked into by the Court to know the nature of possession of the defendant in the land, is also absolutely incorrect, misconceived and against law.

3. Heard the learned counsel for the revision petitioner before admission and before issuing notice to the respondents and perused the material on record.

4. A perusal of the docket order impugned herein shows the trial Court misread the judgment **Bondal Singh** supra in saying the document can be received for collateral purpose thereby though the

collateral purpose is known to law only under Registration Act. From reading of Section 49 of the Registration Act, 1908 (for short, 'The Act'), which says despite compulsory registerable document under Section 17 of the Act, in case of specific performance, the sale agreement can be received and in case of doctrine of part performance though earlier it was saying, a sale agreement can be received but the same was amended even by Central Legislation w.e.f. 24.09.2001 by Act 48 of 2001 and otherwise only for collateral purpose as to nature of possession etc. Here it is important to note that for the Indian Stamp Act, 1899 which is a fiscal legislation there is no collateral purpose because stamp duty must be paid if not duly stamped or insufficient stamped, as the case may be, it has to be impounded by the Court only on a request made by a party to refer the document to the District Registrar for impounding. From the combined reading of Sections 34 to 42 of the Indian Stamp Act and also as laid down by the Apex Court in **Chilakuri Gangulappa Vs. R.D.O., Madanapalli**^[2]. In fact, this Court in many expressions held that the marking of document as to nature of possession from want of registration as collateral purpose does not arise unless it is duly stamped or duly impounded.

5. Having regard to the above, the revision is disposed of by setting aside the docket order of the trial Court, dated 27.02.2016, impugned herein even before admission and before ordering notice to the other side instead of keeping the matter pending. The trial Court is directed to hear both parties as required from the mandate of the Apex Court's expression in **Bipin Shantilal Panchal Vs. State of Gujarat**^[3]. It is needless to say while so hearing even it is shown from nomenclature is not decisive but for the contents, of same is not a sale deed or if at all falls even under contract for sale since compulsory registerable under Section 17(g) of the A.P. Amendment to the Registration Act by Act 4 of 99 w.e.f. 01.04.1999 subject to duly stamped to exhibit as collateral purpose even for want of registration. There is no order as to costs.

6. Pending miscellaneous petitions, if any, in this revision, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 08.08.2016
Vvr

[\[1\]](#) (2003) 4 SCC 161
[\[2\]](#) (2001) SC 1321
[\[3\]](#) AIR(2001) SC 1158