

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CIVIL REVISION PETITION No.3143 of 2016

ORDER:

The Civil Revision Petition is filed by the petitioner/1st defendant under Article 227 of the Constitution of India, aggrieved by the docket order passed on 08.06.2016, in O.S.No.705 of 2010, by the IV Additional Junior Civil Judge, Rajahmundry, East Godavari District.

2. Heard and perused the material available on record.

3. The 1st respondent/plaintiff filed the O.S.No.705 of 2010 for specific performance of agreement of sale, dated 29.06.1998.

4. On 08.06.2016, in O.S.No.705 of 2010, the IV Additional Junior Civil Judge, Rajahmundry, East Godavari District, passed the following docket order:

“The learned counsel for the plaintiff submitted that in view of the proviso to Sec.17 of the Registration Act, the unregistered sale deed dt.29-06-1998 has to be received in evidence.

As per the proviso of Sec.17 of the Registration Act, an unregistered document affecting the immovable property and required by this act, or the transfer of property Act 1982 to be registered may be received in evidence of contract in a suit for specific performance. Admittedly, the suit has been filed for specific performance of agreement of sale dt.29-06-1998.

In view of the above, the unregistered sale deed dt.29-06-1998 can be received in evidence. Call on 10-06-2016 for trial.”

5. The petitioner herein, who is the first defendant in O.S.No.705 of 2010 challenged the said order contending that the alleged document is not an Agreement of Sale, but it is a sale deed executed by one Kanchumarthi George @ Yesu Marayya in favour of the 1st respondent/plaintiff and that the document further discloses that entire sale consideration was received and the possession was also delivered, but the said document was not registered document and it is only notarized sale deed and that the 1st respondent/plaintiff has filed suit for specific performance of Agreement of Sale, dated 29.06.1998

and that the document cannot be received as an agreement of sale without impounding the document for insufficient stamp duty.

6. From the material available on record, it is obvious that the present suit is filed for the specific performance of an agreement of sale. It is the case of the petitioner that the document in question is an unregistered sale deed and it cannot be received without impounding the same for insufficient stamp duty.

7. In view of the nature of the suit, this Court is of the view that the unregistered document affecting transfer of immovable property can be received subject to proof, admissibility and relevancy and, therefore, the order under revision does not warrant any interference by this Court.

8. Accordingly, the Civil Revision Petition is disposed of. Miscellaneous Petitions, if any, pending in this civil revision petition shall stand closed.

RAJA ELANGO, J

Date: 20th July, 2016

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