

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

CIVIL REVISION PETITION NO.792 OF 2016

ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the I Senior Civil Judge, City Civil Court, Hyderabad in I.A. No.583 of 2015 in O.S. No.2121 of 2009 dated 11.12.2015.

The petitioner herein is the defendant in the suit filed by the respondent herein seeking his eviction from the suit schedule property. He filed I.A. No.583 of 2015 under Sections 33 and 35 of the Indian Stamp Act requesting the Court below to direct the respondents-plaintiffs to pay Rs.3,00,000/- towards deficit Stamp duty in respect of the lease deed dated 02.09.1997 and, in the event of their failure, to send the document for impounding to the District Collector.

In the order under revision, the Court below observed that the respondents-plaintiffs had marked Exs.A-1 to A-27 excluding the original lease deed dated 02.09.1987; they had produced P.W-1 to face cross-examination from the petitioner-defendant; it was not the case of the respondents-plaintiffs that they intended that the document be sent to the District Collector for impounding; they were proceeding with the case by producing their witnesses with all the documents already marked by them; it was also not the case of the respondents-plaintiffs that the lease deed dated 02.09.1997 be returned to them so that they could pay the deficit stamp duty and penalty before the District Collector; when the deficit stamp duty is not paid on a particular document, the same cannot be admitted in evidence; in the instant case the respondents-plaintiffs had not pressed for admission of the lease deed dated 02.09.1987 in support of their case; the Court cannot compel a party to pay the deficit stamp duty and penalty, but it can only refuse to admit a document in evidence if deficit stamp duty and

penalty is not paid; and, therefore, the respondents-plaintiffs cannot be compelled to pay the deficit stamp duty and penalty as calculated by the petitioners.

Sri Sharad Sanghi, Learned Counsel for the petitioner, would rely on Section 33 of the Indian Stamp Act in support of his submission that, once a document is sought to be adduced in evidence and it is found that it is either unstamped or insufficiently stamped, every authority who is entitled to receive evidence, and before whom any instrument chargeable 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. It is no doubt true that Section 33 of the Indian Stamp Act requires the authority, entitled to receive evidence, to impound an instrument produced before him if he is of the opinion that such instrument is inadequately stamped. Section 35 of the Indian Stamp Act, however, stipulates that no instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped.

In the present case the lease deed dated 02.09.1987 produced by the respondents-plaintiffs was not marked as an exhibit and the respondent-plaintiff, on an objection being raised thereto by the Learned Counsel for the petitioner herein, had categorically stated before the Court below that they were not pressing for the admission of the lease deed. As the respondent-plaintiffs had categorically stated that they were not pressing for admission of the lease deed in evidence, and it was only the petitioner-defendant who was insisting that the said document be impounded and the respondents-plaintiffs be called upon to pay deficit stamp duty of Rs.3,00,000/-, I find no error in the order of the Court below in refusing to direct the respondents-

plaintiffs either to pay deficit stamp duty or penalty or to impound the document.

The jurisdiction which this Court exercises, under Article 227 of the Constitution of India, is supervisory and not appellate. Save patent illegality or substantial injustice being caused to the person invoking its jurisdiction, this Court would not interfere. The order passed by the Court below does not suffer from any patent illegality nor can the petitioner be said to have suffered substantial injustice thereby. I see no reason, therefore, to entertain this revision under Article 227 of the Constitution of India. The Civil Revision Petition fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed.

RAMESH RANGANATHAN, J

Date: 03.06.2016.
MRKR