

THE HON'BLE SRI JUSTICE S.V.BHATT

CIVIL REVISION PETITION No.1204 of 2016

ORDER:

Heard Mr. C. Prakash Reddy for petitioners and Mr. C.S.K.V. Ramana Murthy for respondents.

2. The revision is directed against the order dated 28.10.2015 whereunder the learned IV Additional District Judge, Kurnool in OS.No.28 of 2013 decided the point viz. Whether the deed of partition dated 20.05.2002 can be received in evidence, against the revision petitioners.

3. Learned Judge has considered the tenor of the document dated 20.05.2002 and has come to the conclusion that the document is hit by the provisions of the Registration Act and cannot be received in evidence unless it is properly stamped.

4. Mr. C. Prakash Reddy, appearing for revision petitioners, by drawing the attention of this Court to the order dated 29.10.2013 in CRP.No.1711 of 2013 tried to persuade that the adjudication by the trial Court on the point, at this stage, is unwarranted for the deficiency either under the Stamp Act or the Registration Act could have been considered at appropriate stage, particularly, after the trial is over and the document is taken on record for the limited purpose of marking. Learned counsel alternatively contends that assuming that the consideration placed by the trial Court is tenable still the defect under the Stamp Act is curable on the ground of probable objection one can take under the Registration Act shutting out the document for all purposes amounts to illegal exercise of jurisdiction by the trial Court, prays for liberty to get the defect under the Stamp Act cured, tender the document in evidence and at that stage, the objections available to the respondents under the Registration Act can be considered.

5. Mr. C.S.K.V. Ramana Murthy submits that the objections either under the Stamp Act or the Registration Act are singular to each one of the document and there cannot be comparable situations and consequently, no reliance on the decision dated 29.10.2013 in CRP.No.1711 of 2013 can be placed. By drawing the attention of the Court to the recitals of deed dated 20.05.2002, learned counsel tries to sustain the order impugned in the revision. On the alternative submission of Mr. C. Prakash Reddy, learned counsel fairly states that the objections under the Stamp Act and the Registration Act are independent and if the party wishes to get the defect under the Stamp Act cured, the same can be considered by the Court. However, curing the defect under the Stamp Act will not cure the defect under the Registration Act. Learned counsel prays for leaving all objections open in this behalf for consideration at appropriate stage.

6. The findings recorded by the trial Court on the requirement of insufficiency of stamp duty, non-registration cannot and could not be interfered with but the request of revision petitioners that they may given liberty to get the defect of stamp duty curable and appropriate directions are issued to the trial Court. I am satisfied the revision can be disposed of by this order.

7. Petitioners, if so advised, are given liberty to get the defect under the Stamp Act cured by impounding the document and are permitted to tender the document in evidence. As and when the impounded document is tendered, if the respondents have objection, in law, the same is left open and it is for the trial Court to decide what extent the objection is tenable and pass orders.

The civil revision petition is disposed of with the above observation. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

July 4, 2016
DSK

S. V. BHATT, J