

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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C.R.P.No.2520 of 2016

ORDER:

Heard Sri Kishore Rai, learned counsel for the petitioner, and Sri V.L.V.Kesava Rao, learned counsel for the respondents, and, with their consent, the revision is disposed of at the stage of admission. This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the learned I Additional Chief Judge, City Civil Court, Hyderabad in O.S.No.158 of 2014 dated 21.04.2016.

When an unregistered gift deed was sought to be marked, the petitioner herein raised an objection thereto on the ground that it was compulsorily registerable under Section 17(1)(a) of the Registration Act, 1908 (for short "the Act"). This objection was negated by the order under revision. Relying on the judgment of the Supreme Court in ***SMS Tea Estate Pvt. Ltd. Vs. Chand Mary Tea Company Pvt. Ltd.***^[1], the Court below observed that even an unregistered document can be received in evidence for two purposes i.e (i) as evidence of a contract in a claim for specific performance; and (ii) as evidence of a collateral transaction which does not require registration. Having noted the purposes for which an unregistered document can be received in evidence, the Court below proceeded to admit the unregistered gift deed dated 08.08.1991 without examining whether the transaction, for which the document was sought to be marked, was a collateral transaction falling within the ambit of the proviso to Section 49 of the Act.

It is only if the Court below had recorded a finding that the said document was to be used for collateral purposes after examining what the collateral purpose, for which the document was sought to be marked, was, could the unregistered document have been marked.

As the Court below has not even examined the purpose, for which the document was sought to be marked in evidence, to determine whether the said purpose was a collateral transaction falling within the ambit of the proviso to Section 49 of the Act, the order under revision must be and is, accordingly, set aside.

The Civil Revision Petition is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

17th June 2016.
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Date: 17.06.2016

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[\[1\]](#) 2011 (14) SCC 16