

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

C.R.P.M.P.No.7654 of 2016

AND

CIVIL REVISION PETITION No.5294 of 2016

COMMON ORDER :

C.R.P.M.P.No.7654 of 2016 is filed by the plaintiff in O.S.No.15 of 2009 on the file of the Andhra Pradesh State Walk Tribunal, Hyderabad, to implead him as respondent No.2 in the present revision petition.

2. The revision petition is filed by the defendant in O.S.No.15 of 2009 against the District Registrar, who was not a party to the suit, impugning the order in C.M.A.No.37 of 2013 passed by the Chief Judge, City Civil Courts, Hyderabad, by sitting in appeal against the order of the District Registrar supra, dated 21.03.2013 in File No.3188/E-Val/2012.

3. The passing of the order by the District Registrar is as per Section 40 (2) of the Indian Stamp Act, 1899, (for short, 'the Act') which is from the request of the sole defendant-revision petitioner, when the Court wanted to impound within its power under Section 33 of the Act, to impose ten times penalty on stamp duty payable, if any, with no other option. When an objection is raised by the plaintiff on the need of stamp duty, within the meaning of Sections 33 to 36 of the Act, at that stage, the defendant asked to send the document before the Court for impounding by the District Registrar from the provision supra and same has to be adopted by the Court though wanted to impound otherwise, since request made by a party to send the

document to the District Registrar as per the decision in **Chilakuri Gangulappa v. Revenue Divisional Officer, Madanapalle and another**¹.

4. The District Registrar within the power conferred from the Court referred to, at request of the party ie., defendant, the document was impounded and impugning the same, an appeal is maintained before the Chief Judge, City Civil Courts, Hyderabad. There is no statutory provision either under C.P.C. or under the Indian Stamp Act to impugn the order of the District Registrar to maintain the appeal. The appeal filed by the defendant is also behind the back of the plaintiff, without impleading the plaintiff, but by showing only the District Registrar as a party. The learned Chief Judge, City Civil Court, Hyderabad, dismissed the appeal. Impugning the same, present revision is maintained.

5. In fact, it is at best prone to revision from the reading of Section 61 of the Act, if not under Article 227 of Constitution of India.

6. Once such is the case, before disposal of the revision, the C.R.P.M.P.No.7654 of 2016 can be allowed, impleading the plaintiff-third party petitioner to come on record as he is a necessary party to the revision.

7. From hearing of both sides and from the above contentions, the very appeal before the lower appellate Court is since not sustainable, equally to impugn the same in the present revision, but for remedy if

¹ AIR 2001 SC 1321

at all to file revision petition against the order of the District Registrar impounding the document by invoking under Article 227 of the Constitution of India and read with Section 61 of the Indian Stamp Act. Needless to say, the remedy is left open to invoke Section 14 of the Limitation Act in maintain revision against the order of the District Registrar, if at all to impugn by showing plaintiff to the suit also as revision respondent.

8. Subject to the above observations, the revision is dismissed.

9. Miscellaneous petitions pending, if any, shall stand closed. No costs.

30th November 2016.

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Dr. B. SIVA SANKARA RAO, J

