

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.7729 of 2016

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue appearing for respondent

Nos.1 to 3.

2. Petitioner has questioned a Memo No.G1/976/2016 dt.08-02-2016 issued by 3rd respondent to impound unregistered original sale deed dt.05-06-1970, presented by the petitioner for the said purpose for collection of deficit stamp duty and penalty under Section 38 (2) of the Indian Stamps Act, 1899.

3. Learned counsel for the petitioner contends that the basis for the impugned memo issued by 3rd respondent is that executants of the document are not alive and that the litigation is pending in respect of the subject property. He placed reliance on the judgment of the Supreme Court in **Government of Andhra Pradesh and others Vs. P.Laxmi Devi**^[1], wherein it was held that the Sub Registrar, being holder of public office, cannot return a document which is insufficiently stamped once he finds that it is not properly stamped and he must impound it.

4. Learned Government Pleader for Revenue

appearing for respondents is not able to point out any provision in the said Act enabling the 3rd respondent to refuse to impound insufficiently stamped documents produced by a party.

5. Having regard to the law declared by the Supreme Court in the above decision, I am of the opinion that it is the statutory duty of 3rd respondent to impound documents which are insufficiently stamped and produced before him by a party, after collecting a deficit stamp duty and penalty under the provisions of the said Act, and he cannot refuse to do so by giving frivolous reasons like litigation is pending or that executants are not alive.

6. The Writ Petition is allowed, the memo dt.08-02-2016 is set aside and 3rd respondent is directed to impound the said document dt.05-06-1970 produced by the petitioner within a period of four weeks from the date of receipt of a copy of that order and collect deficit stamp duty and penalty thereon under the provisions of the Act. The 3rd respondent shall also pay costs of Rs.2,000/- (Rupees Two Thousand only) to the petitioner.

7. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 10-03-2016

kvr

[\[1\]](#) 2008 (3) ALD 56 (SC)