

HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

CIVIL REVISION PETITION No.5435 of 2015

ORDER:

This is a revision by the unsuccessful petitioner/ plaintiff under Article 227 of the Constitution of India against the orders, dated 10.07.2015, of the learned Senior Civil Judge, Razole, East Godavari District, passed in I.A.S.R.No.825 of 2015 in O.S.No.21 of 2008 filed under Order LXVII Rules 1 and 3 read with Section 151 of the Code of Civil Procedure, 1908, requesting the trial Court to review its order dated 16.02.2015 on the ground that an error that had ensued while appreciating the decisions relied upon by the parties is apparent on the face of the said order.

I have heard the submissions of Sri Rambabu Koppineedi, learned counsel for petitioner and Sri S Subba Reddy, learned counsel appearing for respondent No.6 and perused the material record.

The facts, which are necessary to be stated as a prelude to this order, in brief, are as follows:

When the defendants tendered for marking, a Khararunama dated 14.03.1994, which is unregistered, an objection was raised by the plaintiff that the said document in respect of immovable property transaction is inadmissible in evidence as it is neither sufficiently stamped nor is registered. It is further contended that it cannot be even marked for collateral purpose. The trial Court having heard the submissions of the learned counsel for both sides passed a detailed order on 16.02.2015.

The operative portion of the said order reads as under:

“In view of nature of the document and nature of the suit, I feel the said document i.e., Khararunama, dt:14-3-1994 can be marked as exhibit subject to payment of stamp duty and penalty for the collateral purpose. It is pertinent to mention that mere

marking of document it does not mean all the contents therein are proved. The learned counsel for the plaintiff is at liberty to cross examine the witness on the said document.”

[Reproduced verbatim]

The said order has become final. Thereafter, the petitioner/plaintiff filed the subject application for review of the said order. The trial Court raised an objection as to the maintainability of the said application; thereafter, having heard the learned counsel for the defendants, the trial Court rejected the application even without numbering. Therefore, the plaintiff is before this Court.

A plain perusal of the intermediary order passed by the Court below would indicate that the trial Court held that subject to payment of deficit stamp duty and penalty, the said Khararunama can be marked as an exhibit for looking into the same for collateral purpose i.e., for a purpose other than the main purpose, though it is not registered. The trial Court further mentioned in its order that mere marking of a document is not proof of its contents and hence, the learned counsel for plaintiff has the liberty to cross-examine the witnesses on the various aspects of the said document. In the review application filed before the trial Court, the only contention raised is that there is an error apparent on the face of the order of the Court below as the trial Court did not properly appreciate the decisions relied upon while passing the said order. The trial Court, having perused its earlier order and the grounds urged, came to a correct conclusion that there is no error apparent on the face of the order and that if the plaintiff is aggrieved of its orders, the remedy lies elsewhere, but no application for review is maintainable as already a reasoned order was passed considering the decisions cited. Even assuming for a moment that the trial Court erred in appreciating the decisions cited and that the conclusion arrived at by it is incorrect, under the guise of a review application, the plaintiff cannot seek to re-argue the matter, which has become final, for

not preferring any appeal or revision. Though at the hearing, the learned counsel for petitioner/plaintiff placed reliance on the decision of this Court in Smt.Aruna Sagar v. M/s.Shrushti Infrastructure Corporation [2016 (5) ALT 133], the said decision is not helpful for the plaintiff, for, even in that decision, this Court, while following the decisions of the Supreme Court, has held that an unstamped document is inadmissible in evidence even for collateral purpose and that unless deficit stamp duty and penalty, if any, payable are paid, the document cannot be permitted to be exhibited even for collateral purpose. As the trial Court gave liberty to the defendants to exhibit the document subject to payment of deficit stamp duty and penalty, if any, payable on the document, the decision cited is more helpful to the defendants rather than the petitioner/ plaintiff.

On the above analysis, this Court finds that the trial Court is justified in passing the order impugned in this revision and that the revision petition is devoid of merit. It is made clear that the trial Court shall permit the document to be exhibited only on payment of the deficit stamp duty and penalty payable on the said document.

The revision petition is accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

28th November 2016

ajr

M. SEETHARAMA MURTI, J