

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. No.5295 OF 2016

ORDER:

The Civil Revision Petition is filed impugning the order dated 06.09.2016 passed in I.A. No.122 of 2016 in R.C. No.134 of 2015 on the file of I Additional Rent Controller-cum-XIII Junior Civil Judge, City Small Causes Court, Hyderabad.

2) Heard learned counsel for the revision petitioner and learned counsel for the respondent. Perused the material on record.

3) The revision can be disposed of, before issuing notice and before admission, without prejudice to the right of the respondent, thereby disposed of for no grounds to admit, for the reason that the lower Court is right in refusing the request to send for a certified copy of the document for impounding under Section 33 of the Indian Stamp Act, 1899 (for short 'the Act') for not an instrument within the meaning of Section 2 (14) of the Act as also observed in this regard by this Court in C.R.P. No.1850 of 2015 dated 23.08.2016 and also on what is the procedure to be adopted, if the document is in the custody of a third party as to summon that person to produce that original document and therefrom, the party, who wants to rely has to deposit the stamp duty with penalty for impounding by the Court and after substitution with certified copy of the duly impounded and stamp duty and penalty paid and so endorsed original to the party by taking undertaking to produce as and when required said original document for the purpose of giving evidence with reference to it.

4) As it is the duty of the party to produce original document to impound the same, if it is within his custody or cause produce, if it is in the custody of a third party on summoning if necessary or to send for if it is in the custody of public office by invoking the procedure contemplated by Rule 129 of Civil Rules of Practice and if it is in the custody of the Court by invoking the procedure contemplated by Rule 128 of C.R.P. The same is also observed in this regard in C.R.P. No.4257 of 2016 dated 15.11.2016.

5) Thus, the remedy available to the petitioner is to file an application to send for the document if the original is required lying in another suit, to send for to this suit to consider the original as instrument within the meaning of Section 2 (14) of the Act and to impound or to send for District Registrar if sought for, as laid down by the expression of the Apex Court in ***Chilukuti Gangulappa vs RDO, Madanapalli***¹. Thus, without prejudice to such remedy for filing such an application, for this Court while sitting in revision, there is nothing to interfere with the impugned order of the lower Court. No order as to costs.

6) Consequently, pending miscellaneous petitions, if any, shall stand dismissed.

Dr.JUSTICE B. SIVA SANKARA RAO

Dt.22.11.2016
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¹ AIR 2001 SC 1321