

**HON'BLE SRI JUSTICE S.V.BHATT**

**CIVIL REVISION PETITION No.4963 of 2016**

**ORDER:**

Defendant No.3 in O.S.No.256 of 208 in the Court of Junior Civil Judge, Thorrur is the revision petitioner. The revision petitioner filed I.A.No.161 of 2016 under Section 38 of the Indian Stamp Act to send document, dated 09.11.1981, for impounding and payment of necessary stamp duty thereon.

The suit is one for perpetual injunction filed by respondent No.1 herein. The trial Court after considering the stand taken in the written statement and a few attendant circumstances, rejected the prayer to send the document for impounding. The reasons given by the trial Court are as follows:

“This is suit filed by the plaintiff for bare injunction and the matter is coming up for arguments after full-fledged trial. At this stage, the petitioner filed this application along with 3 other applications i.e. application under Order XVIII Rule 17 C.P.C. to recall DW1 for the purpose of marking document, under Order VIII Rue 1 C.P.C. to receive the enclosed document and to reopen the evidence of DW1 for the purpose of marking of said document. As can be seen from the written statement filed by the petitioner/defendant No.3 herein, there is no whisper with regard to said document and it is well settled principle of law that any amount of evidence without pleading cannot be considered and moreover as this suit is filed by the respondent/plaintiff for bare injunction, the document which is sought to be impounded and filed will have no bearing on the result of the suit and this Court is of considered opinion that sending the simple agreement of sale for impounding is

unnecessary. Further, the petitioner earlier having filed the application to send the simple agreement of sale dated 9.11.1981 to the District Registrar, Warangal in O.S.No.257/2008 not pressed the same and this itself shows the present application is filed with an intention to drag on the proceedings in this suit. Admittedly, this application is filed at the stage of arguments only to drag on the proceedings, hence there is no *bona fides* in filing of this petition by the petitioner and the same is liable to be dismissed. The point is answered accordingly.

I have perused the reasons given by the trial Court and I am in agreement with the findings recorded by the trial Court in the order impugned in the revision. Having regard to the nature of relief prayed in the suit and that the burden is on respondent No.1 to prove, and the issue of onus arises thereafter, I am not inclined to admit the civil revision petition.

Civil revision petition fails and is accordingly dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this civil revision petition shall stand closed.

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**S.V.BHATT,J**

Dt:20.10.2016

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