THE HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.No.681 OF 2016

ORDER:

Plaintiff in O.S.No.34 of 2013 in the Court of the Principal Junior Civil Judge, Gudur is the revision petitioner.

The revision petitioner filed I.A.No.507 of 2015 for impounding the suit document i.e., agreement of sale dated 08.04.1996 by the District Registrar, Gudur under Section 33 of the Indian Stamp Act, 1899. The prayer was rejected. Hence, the revision.

The revision petitioner averred that the suit document contains recital about delivery of possession to revision petitioner and the suit document admittedly is unstamped. Therefore, the revision petitioner prays the Court to send the suit document for impounding by the District Registrar to rectify a curable mistake.

The respondents opposed the prayer for sending the suit document for impounding. For the purpose of disposing of the revision, the objection necessary therefor is adverted to. The respondents submit that the suit schedule property is Government property and the entire survey number is included in the prohibitory list. The market value certificate issued by the registration department shows that the suit schedule land is Government land and that no valuation is available. Therefore, the respondents prayed for dismissal of the application.

The learned trial Judge recorded the following finding:

> "To substantiate the contention of the respondents they filed No.3 adangal and valuation certificate issued by the S.R.O Gudur. It is apparent form No.3 adangal that the total extent in S.No.47 of Nellatur village is 'Gramanatham Poramboku'. Further, it is apparent from valuation certificate that the extent in S.No.47 is "the said property found in prohibited property register". With the aid of above two documents it is clear that the total extent of 4.95 cents in S.No.47 is Gramanatham land, in such a case, obviously, the 0.07 cents out of 4.95 cents more fully

> described of plaint schedule property is also gramanatham lands, for which no registration can be entertained.
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> For the lands of Government, there will be no registration value. When there is no registration value for the property, how the registering authority will levy the fine and stamp duty? Certainly not possible."

Mr.S.Lakshminarayana Reddy, learned counsel for the petitioner, contends that the trial Court, while examining the prayer, considered the nature of property covered by suit documents and recorded a finding. This approach cannot and could not have been taken up by the trial Court. The trial Court has posed a wrong question for decision in the order under revision and consequently the consideration and findings of the trial Court are *ex facie* illegal and are liable to be set aside. According to him, even assuming that Sy.No.47 is classified as Government/Gram Kantam land and no valuation is provided in the basic value register, after the document is presented for impounding, the competent authority is entitled to take note of valuation in neighbourhood and call upon the applicant to pay stamp duty and penalty.

It is further contended that the procedure under Section 35 of the Indian Stamp Act is intended to make good the loss of stamp duty suffered by the State exchequer and recover the same from parties with penalty as and when unstamped document is presented before Court etc., as stipulated in Section 35 of the Act. He relies upon the decisions of this Court in **CHINTALPUDI ANNAPURNAMMA AND ANOTHER v. ANDUKURI PUNNAYA SASTRY AND OTHERS**[1] and **L.RAMA SEETHAMMA v. TELUGU SOLIPURAM NARASIMHA**[2].

In ***Chintalpudi Annapurnamma's*** case (1 supra), the Division Bench held as under:

> "……….the civil Court or Tribunal can impound a document and levy duty and also penalty on the document sought to be admitted in evidence which is

> found to be exigible for any reason. There lies the option of the party either to pay the duty together with penalty and get the document admitted or simply make an application to the Court to send the document to the Revenue Divisional Officer and to defer the admission till then."

In ***L.Rama Seethamma's*** case (2 supra), it is held thus:

> "In the facts and circumstances of the case, I am of the considered view that a duty is cast upon the Court to see as to the admissibility of the document in evidence under the provisions of Section 33 of the Act and at the same time, it is also an obligation on the part of the party who produces a document not duly stamped, for admission in evidence, to pay the stamp duty and penalty and unless and until the party pays the same, such a document cannot be admitted in evidence. In such a situation, if the party requires the Court to refer the document to the Revenue Authorities for final assessment of the stamp duty and penalty, there is no other go except to forward the same and at this stage, he cannot be compelled to pay the stamp duty and penalty as imposed by the Court."

Mr.Kambampati Ramesh Babu, learned counsel for respondents, submits that unless and until the valuation is available, the District Registrar cannot impound the document. By reading the findings recorded by the trial Court, he prays for dismissal of the revision.

I have carefully considered the submission of learned counsel appearing for the parties and perused the material available on record. The trial Court declined to send the suit document for impounding primarily on the ground that the classification of schedule property covered by suit document is shown as "Gramanathan poramboku" and no valuation is available with the Sub-Registrar. I am *prima facie* satisfied that the request for sending the suit document for impounding could not have been considered by reference to the classification of property covered by the suit document. The ratio of this Court in the decisions referred above is very clear that the trial Court has no option except to refer the document for impounding by the Registrar. After the document is sent to the District Registrar for impounding, the authority will proceed in accordance with the rules for determination of the value of suit document and thereafter collect the stamp duty and penalty from the party seeking impounding.

For the above reasons, the revision is allowed and order impugned in the revision is set aside. The trial Court is directed to send the suit document dated 08.04.1996 to the District Registrar, Gudur for impounding. There shall be no order as to costs.

Consequently, pending miscellaneous petitions, if any, also stand disposed of.

S.V.BHATT, J

Date:08.03.2016
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[1] 200(3) ALD 649 (DB)

[2] 2002(6) ALT 239