HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

C.R.P.No. 3793 of 2016

O R D E R:-

The Civil Revision Petition is filed by the petitioner – plaintiff aggrieved by the order dated 08.07.2016 in O.S.No.16 of 2011 on the file of the Court of the Junior Civil Judge, Railway Kodur, Kadapa District.

2) Before the trial Court, defendant Nos.1, 2, 5 and 6 sought to mark two documents i.e. unregistered deficiently stamped relinquishment deed dated 25.07.1996 and unregistered deficiently stamped agreement to sell dated 25.07.1996. The petitioner-plaintiff opposed those documents. The trial Court passed the following order:

> "On perusal of the documents sought to be marked by the defendants is that the original unregistered relinquishment deed dated 25.07.1996 and original unregistered agreement of sale dated 25.07.1996. On perusal of the original unregistered sale agreement, the recitals show that the delivery and possession of the property was made on the date of execution of the deed itself. Therefore, the document must be treated as a sale deed and it requires stamp duty and penalty for admissibility. The relinquishment deed is nothing but dealing the right of the person relinquished in favour of other. Therefore, it comes under the transfer of immovable property. In such case, the said documents cannot be marked even for collateral purpose. Therefore, if at all the defendant is wanted to mark the documents, the defendant has to take steps for payment of stamp duty and penalty."

Aggrieved, the petitioner-plaintiff filed the instant Civil Revision Petition.

3) Heard Sri V.V.N.Narasimham, learned counsel for the petitioner and Sri Chetluru Srinivas, learned counsel for the respondents and with their consent, the Civil Revision Petition is disposed of at the admission stage.

4) The learned counsel for the petitioner would submit that since the agreement of sale and relinquishment deed are not duly stamped and unregistered, both the documents are not admissible in evidence, but the trial Court committed an error in holding that on payment of stamp duty and penalty, the documents could be admitted in evidence. He, therefore, sought to set aside the order.

5) Per contra, the learned counsel for the respondents-defendants, while supporting the impugned order, submitted that on payment of the stamp duty and penalty, the documents can be admitted in evidence.

6) In the light of the above rival arguments, the point for determination is whether there are merits in the Civil Revision Petition to allow?

7) As can be seen from the impugned order extracted supra, the trial Court rightly described the two documents i.e. one as unregistered and deficiently stamped relinquishment

deed dated 25.07.1996 and another as unregistered and deficiently stamped agreement to sell dated 25.07.1996.

8) So far as the relinquishment deed is concerned, since it was unduly stamped and also an unregistered one, the trial Court rightly held that the same cannot be admitted in evidence even for collateral purpose. Therefore, it can be held that the trial Court was right in holding that the unregistered and deficiently stamped relinquishment deed cannot be looked into for any purpose.

9) So far as the agreement to sell is concerned, delivery of possession was given by this document. Therefore, the trial Court has observed that it requires stamp duty and penalty for admission. As per Article 47-A of the Indian Stamp Act, 1899, if an agreement to sell either followed or evidencing delivery of possession, that document requires to be treated as sale in terms thereof. Since that is not done in the instant case, the trial Court rightly observed that the said document requires stamp duty and penalty in terms of Article 47-A of Schedule 1A of the Act.

10) So far as registration is concerned, as per Section 17(1)(g) of the Registration Act, 1908, agreement of sale of immovable property of the value of one hundred rupees and upwards, requires to be compulsorily registered as per A.P. Act 4 of 1999 with effect from 01.04.1999. Since the

agreement to sell, in the instance, case was dated 25.07.1996, the said provision has no application. Therefore, the trial Court was right in holding that the agreement to sell requires only stamp duty and penalty in terms of Article 47-A of Schedule 1-A of the Indian Stamps Act.

11) Having regard to the above-mentioned legal position with reference to the Indian Stamp Act and Registration Act, the argument of the learned counsel for the petitioner that both the documents in question are not admissible in evidence, is untenable and cannot be appreciated. It is made clear that the relinquishment deed dated 25.07.1996 as observed by the trial Court is not admissible in evidence. However, the agreement to sell dated 25.07.1996 can be admitted in evidence if the respondents-defendants are ready to pay stamp duty and penalty in terms of Article 47-A of Schedule 1-A of the Indian Stamp Act.

12) With the above observations, the Civil Revision Petition is dismissed. No order as to costs.

13) As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

U.DURGA PRASAD RAO, J

Date: 01.03.2017

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