

HONOURABLE SRI JUSTICE P.NAVEEN RAO

CIVIL REVISION PETITION NO.4556 OF 2017

Date: 17.11.2017

Between:

Kotte Dayakar S/o Venkatesham, Aged 47 years,
Occu:Retired Service, H.No.1-1-60, Teachers Colony,
II Phase, Waddepally, Hanamkonda, Warangal District,
Telangana State

.....Petitioner/respondent no.2/
Defendant no.2

and

D.Swarajyalaxmi W/o. late Laxmana Chary,
Aged 57 years, Occu: Employee, R/o. C/o. V.Suguna,
H.No.15-11-147, Ramannapet, Warangal district
and others.

.....Respondent/petitioner/
Plaintiff

Kotte Navamma, W/o Dayakar,
Aged 43 years, occu:Housewife, H.No.1-1-60,
Teachers Colony, II Phase, Waddepally, Hanamkonda,
Warangal district, T.S., and others.

.... Respondents/respondents/
respondents

The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

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ORDER:

Plaintiff filed I.A.No.590 of 2016 in O.S.No.591 of 2010 on the file of I Additional Senior Civil Judge at Warangal under Section 38 (2) read with Section 47-A of Indian Stamp Act, 1899 to send the original document dated 05.10.1986 to the District Registrar, Warangal for impounding and collection of stamp duty along with penalty.

2. The said petition was allowed. Aggrieved thereby, the 2nd defendant filed this revision petition.

3. Plaintiff instituted the suit against the defendants to grant perpetual injunction in the suit schedule property. According to the plaintiff, her mother acquired the suit schedule property from Kazipet Cooperative Housing Society Limited. In support of the claim that suit schedule property was acquired by her mother, plaintiff sought to rely on the allotment order dated 05.10.1986 issued by the Society. When she intends to mark the allotment order on her behalf, respondents raised objection stating that the document was unstamped and unregistered. It appears, on earlier occasion, on the request of plaintiff, the Court sent the document to the concerned section of the Court for collection of stamp duty and penalty to be paid. It appears, the section put up note saying that no transfer of property is involved in said document and no need to collect stamp duty and on placing the same before the Hon'ble Court, Court has made endorsement as 'seen'. Thereafter when the plaintiff sought to mark the document, objection was raised on the admissibility of the document as it was not stamped and registered. Having confronted with this objection, plaintiff filed I.A.No.590 of 2016.

4. During the course of arguments in the said I.A., on behalf of the defendants, same objection was raised. The Court overruled the said objection and allowed the I.A. Lower Court observed that it is for the competent authority to decide whether the particular document is liable to be stamped or not, nature of document and quantum of duty to be collected.

5. Learned counsel for petitioner herein sought to contend that when earlier order of the Court regarding the same issue became final, it is not open to seek impounding of document and the present application is not maintainable as it is hit by principle of *res judicata*.

6. Learned counsel for plaintiff submits that plaintiff is compelled to file petition in view of the objection raised by the defendants on admissibility of document on the ground that it is not sufficiently stamped and registered.

7. As noted by the lower Court, there was no decision made on the earlier occasion. Court only noted objection and directed the Office to assess the value of the document. Having regard to the objection raised by the defendants on admissibility of the document, plaintiff filed I.A. On due consideration of rival submissions, the lower Court allowed the said I.A.

8. I do not see any error in the decision arrived at by the lower Court. Civil Revision Petition is accordingly dismissed.

Miscellaneous petitions, if any, pending shall stand closed.
There shall be no order as to costs.

JUSTICE P.NAVEEN RAO

Date: 17.11.2017
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