

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.5219 OF 2017

O R D E R

The petitioner, the plaintiff in O.S.S.R.No.10153 of 2015 on the file of the learned Senior Civil Judge, Ramachandrapuram, East Godavari District, is aggrieved by the Docket Order dated 25.07.2016 passed by the Court below refusing to number the suit unless stamp duty is paid on the document of mortgage.

As the Court below is yet to take the matter on file and the suit is yet to be numbered, this Court is of the opinion that it would be unnecessary at this stage to put the respondents/defendants on notice.

Perusal of the Docket Order reflects that the Court below was of the opinion that the document, which is insufficiently stamped and which formed the basis for the suit, cannot be accepted at the stage of numbering of the suit and that the party relying on such a document must make good the deficit stamp duty before presenting the plaint.

It is well settled that upon the document being presented before it for marking in evidence, after numbering of the suit, the Court below would have the power under Section 33 of the Indian Stamp Act, 1899 to impound the said document and send it to the authority concerned for collection of deficit stamp duty. However, the Court below cannot, at the outset, declare that unless stamp duty is paid on the document sought to be relied upon by the plaintiff, the suit-plaint will not be accepted.

The Docket Order dated 25.07.2016 is accordingly set aside and the Court below is directed to receive and number the suit

presented by the plaintiff, if it is otherwise found to be in order. This order shall not preclude the Court below from taking necessary steps at the appropriate stage for impounding the document, if necessary, and from taking further steps for collection of stamp duty.

The civil revision petition is accordingly allowed. No order as to costs.

SANJAY KUMAR, J

3rd NOVEMBER, 2017

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