

THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

CIVIL REVISION PETITION No.4668 of 2017

ORDER :

This Revision is filed assailing the order dt.23-06-2016 in S.R.No.7644 of 2017 in O.S.No.89 of 2012 of the Principal District Judge, West Godavari at Eluru.

2. The said suit was filed for recovery of money on the foot of a promissory note by petitioners. The basis of the suit was that money was borrowed by respondents on the basis of promissory and also title deeds were deposited to secure the debt authorising the lender to sell the said properties if the borrowed amount is not paid.

3. During the course of evidence, the petitioners sought to mark an unregistered and unstamped document dt.30-09-2009 styled as deed of deposit of title deeds. The admission of this document was objected by respondents relying on the judgment of this Court in **Satti Venkateswara Reddy Vs. Mallidi Venkata Reddy**¹. They contended that the document dt.30-09-2009 is not a simple document recording deposit of title deeds as security, but since it also authorised the lender to take action for recovery of money if the amount is not paid, it needs to be charged as regular mortgage deed.

4. The Court below upheld the said objection of respondents taking note of the fact that the recitals in the document dt.30-09-2009 not only recorded the deposit of title deeds relating to the property

¹ 2016(4) ALD 498

given as security for the loan transaction, but also permitted the lender to sell the said properties on the failure of the borrowers to repay the amounts. It held that therefore the document is to be chargeable as a regular mortgage deed and also requires registration under Section 17(1)(c) of the Registration Act, 1908.

5. Assailing the same, this Revision is filed.

6. Learned counsel for petitioners contended that merely because there is a sentence in the document dt.30-09-2009 authorising the lender to sell the property covered by the document of title deposited with the lender by the borrowers, it cannot be said that it is a mortgage deed and ought to have been charged with stamp duty prescribed for regular mortgage deed.

7. However no citation contrary to the principle laid down in **Satti Venkateswara Reddy** (1 supra) has been produced before this Court in support of the said contention of the learned counsel for petitioners.

8. It is important to note that the said decision was rendered placing reliance on the judgment of the Madras High Court in **Muthiah Chetty Vs. Kodandarama Swami Naidu**² as well as another judgment of this Court in **Thota Venkata Narasamma Vs. S.V.M.Srinivasan**³.

9. After perusing the said decisions, I am of the opinion that the principle of law laid down therein is correct and that the Court below rightly followed the judgment in **Satti Venkateswara Reddy**

² Volume 31 MLJ 347

³ 1996(3) ALD 887

(1 supra) while refusing the request of petitioners to admit the document dt.30-09-2009 in evidence unless it is registered and it is charged with stamp duty as if it is a regular mortgage deed.

10. The Civil Revision Petition is accordingly dismissed at the stage of admission. No costs.

11. Miscellaneous applications pending if any in this Revision shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 06-10-2017

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