

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION No. 3243 of 2017

ORDER:

- 1) Challenging the docket order dated 20.03.2017 in O.S.No.84 of 2015, wherein the Senior Civil Judge, Palamaner passed the impugned order directing the petitioner herein to pay stamp duty and penalty of Rs.1,31,780/-, without either assigning any reasons or referring to any provision of law, the present C.R.P. is filed under Article 227 of the Constitution of India.
- 2) The main ground urged by the learned counsel for the petitioner is that without giving any reasons and without referring to any of the provisions of law, the learned Senior Civil Judge, Palamaner erred in directing the petitioner to pay the stamp duty of Rs.1,19,800/- and penalty of Rs.11,980/-.
- 3) The same is opposed by the learned counsel for the respondent contending that since the document impugned is unstamped there is nothing wrong in court directing the petitioner to pay a particular sum of money as stamp duty.
- 4) It is not in dispute that the document is unstamped and it is also not in dispute that the trial court has fixed the value of the stamp duty and also the penalty. But curiously without giving any

reasons and without referring to any provision of law, the impugned order came to be passed. The reason why a reasoned order ought to have been passed is, because of the dispute raised, namely as to whether the document in question is a promissory note or an agreement. If it is an agreement, definitely the petitioner herein is liable to pay the said amount. But if the said document is a promissory note, things would be different. The said issue was not at all considered by the trial court. Hence, the order under challenge is liable to be set-aside.

5) Accordingly, the Civil Revision Petition is allowed, the order under challenge is set-aside and the matter is remanded back to the trial court to decide as to whether the said document is a promissory note or an agreement of sale and thereafter pass the consequential order. No costs. Miscellaneous Petitions pending if any in this C.R.P. shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Dt:11.09.2017
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