

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.5035 of 2014

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the order, dated 21.10.2014, in Original Suit No.01 of 2010, passed by the Senior Civil Judge, Jangaon, Warangal District, whereby the Court below while admitting the document, dated 21.02.2007, filed by the 1st respondent herein, overruled the objection raised by the petitioner and others that the document is insufficiently stamped and it requires registration under Section 17 (1) (b) of the Registration Act, 1908 (for short, 'the Act'), as the document was already assessed and an amount of Rs.1,100/- was collected as stamp duty and penalty and treated the document as an agreement.

2. Learned counsel for the petitioner submits that no opportunity was afforded to the petitioner at the time of impounding the document and apart from that the document would fall under Section 17 (1) (b) of the Act and thereby the order passed by the trial Court is not legal and prayed to set aside the same.

3. As seen from the contents of the document, it is clear that the property to an extent of Ac.16.32 cents in S.Nos.302 to 305 situated in Kommalla Village was jointly purchased by the respondents/defendants with equal share to share the profits equally. The said document would not create any interest or extinguish any right in the subject property as they agreed to share the profit and loss equally. Therefore, the document would not fall within Section 17 (1) (b) of the Act and making a request by learned counsel for the petitioner to reject the document on the ground that it would fall under Section 17 (i) (b) of the Act is unsustainable and this contention is

without any legal basis. At best, the document can be treated as Memorandum of Understanding, where the executants agreed to share the profits equally. Therefore, it is only an agreement and not the document creating or extinguishing any right in immovable property. Hence, the finding of the trial Court does not call for interference of this Court while exercising the power under Article 227 of the Constitution of India.

4. The other objection raised before the trial Court is that the document is not properly stamped. When the document, dated 02.01.2007 is treated as an agreement, it is required to be stamped with Rs.100/-. Therefore, the stamp duty and penalty payable on the document is Rs.1,100/- to cure the defect under the Stamp Act. The document was also already marked as Ex.A.1, but the petitioner did not file any application under Order XIII Rule 4 CPC, however, raised an objection about the admissibility, which was overruled by the trial Court. On over all consideration of facts and circumstances of the case, I find no ground to set aside the order passed by the trial court. Hence, the civil revision petition is liable to be dismissed.

5. Accordingly, the Civil Revision Petition is dismissed. However, it is open to the petitioner to file an application under Order XIII Rule 4 CPC. Miscellaneous petitions, if any, pending in this revision petition shall stand closed. There shall be no order as to costs.

JULY 6, 2017
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M. SATYANARAYANA MURTHY, J

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Date: 06.07.2017

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