

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 4559 of 2017

ORDER:

Heard learned counsel for the petitioner. No representation on behalf of the respondent.

Assailing the cryptic order dated 27.06.2017, passed in O.S.No.132 of 2013, by IV Additional District Judge, Kakinada, wherein, the trial Court held that the document dated 06.02.2013, requires payment of stamp duty, in view of Section 17 (g) of the Registration Act, the present civil revision petition came to be filed.

Learned counsel for the petitioner mainly submits that the trial Court ought to have passed an order giving reasons as to why stamp duty is to be paid. According to him, the entire agreement of sale nowhere indicates delivery of possession of the property for construction of flats. It is the case of the petitioner that since the defendants failed to execute the development agreement-cum-irrevocable General Power of Attorney for construction, the suit for specific performance came to be filed. Such being the position, payment of stamp duty would not arise.

As stated earlier, inspite of service of notice, there is no representation on behalf of the respondent.

The impugned order which is bereft of any reasons is as under:

“In view of the Amendment as per Section 17(g) of the Registration Act, the proposed document to be marked is compulsorily registerable.

By perusing the document i.e., agreement of sale, it is to be seen that the possession was also given under the said document for construction of flats.

Hence, the plaintiff is directed to pay the required stamp duty penalty for marking the same as Exhibit.”

A reading of the above order shows that the trial Court came to a conclusion that there is delivery of possession, without referring as to the contents of the agreement of sale or the plaint, evidencing delivery of possession to the plaintiff.

In view of the above, the order under challenge is set aside and the matter is remanded back to the Court below i.e., IV Additional District Judge, Kakinada. Further, the Court below is directed to pass a detailed order giving reasons as to when and in what manner, the possession was delivered, after hearing all the concerned parties.

Accordingly, the Civil Revision Petition is disposed of. No costs.

As a sequel thereto, Miscellaneous Petitions pending if any in this Civil Revision Petition, shall stand closed.

15.12.2017
vnb

C. PRAVEEN KUMAR, J