HON'BLE Dr.JUSTICE B.SIVA SANKARA RAO

Civil Revision Petition No.1015 of 2016

ORDER

Heard both sides. Perused the grounds of revision and impugned order of the lower Court, dt.25.01.2016 in I.A.No.1000 of 2015 in O.S.No.2575 of 2015 and the scope of law on Sections 33 to 42 of the Indian Stamp Act(for short, 'the Act'), and Sections 17 and 49 of the Indian Registration Act(for short, 'IR Act'), and the expression of the learned Single Judge of this Court in which one of the parties placed reliance on Telugu Krishna Mohan Vs. Boggula Padmavathy[1] besides Buddha Jagadeeshwara Rao Vs. Sri Ravi Enterprises[2].

Undisputedly, collateral purpose is not known to the Stamp Act and once a document requires stamp duty from not duly stamped, the party is bound to pray for the Court to impound with ten times penalty to the original stamp duty and even after the Court passing order for such impoundment, the party gets right to request the Court to refer to the District Registrar and Court has to consider for sending the same. It is only after the document duly impounded either by the Court or by the District Registrar, as the case may be, it cures the defect as if it is a (original document) duly stamped. It is thereafter, the question of considering whether the document is compulsorily registerable

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[1] (2009) 5 ALT 132

[2] (2017) 2 ALT 736

or not and if it is a compulsory registrerable document, it comes within the proviso to Section 49 of the IR Act, and if so, to what extent to consider from any objection raised while marking if at all within any of the two limbs of the proviso to Section 49 of the IR Act, from the amendment to the IR Act, Section 17 of A.P. Amended Act 4 of 1999 dt.01.04.1999 and from the Central Amendment to proviso to Section 49 of the IR Act, by the Central Act 48 of 2001 w.e.f. 24.09.2001, then the Court has to consider if there is any collateral purpose other than in a suit for specific performance of the unregistered contract for sale, to mark as laid down in Bhudda Jagadeeshwara Rao supra and even from the learned Single Judge expression of the Telugu Krishna Mohan Supra what was observed is if the document is totally inadmissible from Section 17 of the IR Act, the question of sending a document for impounding is with no purpose unless it is shown for any collateral purpose to rely. Even from that expression, after duly stamped for a collateral purpose even required to be registered or not registered can be admitted is clear.

The other contention is the so called General Power of Attorney (GPA) got only life during the survival of the respective principals and it is also not known how many alive and whether it is for consideration or not or within the meaning of Sections 201 and 202 of the Contract Act or not, even from death of principal. Once such are the aspects, it is also premature for this Court to express any opinion but for at the time of marking after duly stamped, to consider by the Court for any collateral purpose to serve to mark or otherwise and other than stamp duty and registration concerned, as held in Bipin Shantilal Panchal vs State Of Gujarat[3] any objection regarding admissibility, proof of relevancy is to decide ultimately by marking subject to objections. But for with these observations, the revision is liable to be disposed of.

Having regard to the above and in the result, the revision is disposed of as there is nothing to interfere with the impugned order, dt.25.01.2016 in I.A.No.1000 of 2015 in O.S.No.2575 of 2015 on the file of the II Addl.Junior Civil Judge, Ranga Reddy district, at L.B.Nagar. Leave about any subsequent marking of the document after the order of the lower Court pending revision, that will not prejudice the right of the revision petitioner so far as the requirement of registration if any concerned, for the Court to decide ultimately if no objection raised, already from the other side saying it is marked without objection.

Consequently, miscellaneous petitions pending if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 04.12.2017
b/o.vvr.

[3] AIR 2001 SC 1158