

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.1378 of 2016

ORDER :

This revision is filed by the petitioner/defendant, aggrieved by the order dated 11.12.2015 in O.S.No.178 of 2010 passed by the Additional Senior Civil Judge, Gudivada.

2. Heard both sides and perused the grounds urged in the revision and the impugned order of the lower Court dated 11.12.2015.

3. While the unregistered possessory sale agreement dated 25.10.1980 sought to be marked in the chief examination of the defendant, from the objection raised by the learned counsel for the plaintiff of the document is liable to be stamp duty as if conveyance, that objection is upheld by the impugned order of the lower Court by referring to the expression of this Court in Vanapalli Jayalaxmi @ Venkata Jayalaxmi v. A.Kondalarao and others¹.

4. In fact, even from perusal of the said expression and a bare perusal of the Andhra Pradesh Amended Act 17 of 1986 to the Stamp Act incorporating in the Schedule 47-A and in Schedule I-A Article 6-B after 6-A besides 6-C, the said amendment of possessory agreement to be treated as a conveyance to impound with the stamp duty of conveyance and to endorse later on

¹ 2014(1) ALT 356

registration of Rs.5/- stamp paper applies only to the agreements, which are executed after the amendment came into force on 16.08.1986 and not before that aspect. The lower Court did not consider and had it been considered, it could have been accepted the document saying it is duly stamped on Rs.5/- stamp paper as per the law prevailing as on the date of execution of the sale agreement even possessory, that was not required any registration.

5. Having regard to the above, the Civil Revision Petition is allowed and the order of the lower Court is set aside by upholding that sale agreement is not liable for stamp duty beyond Rs.5/- as on the date of the sale agreement dated 25.10.1980, much less, any requirement of registration. Thereby it has to be marked subject to any other objection referring to proof, admissibility and relevancy to decide ultimately as per the expression of the Apex Court in *Bipin Shantilal Panchal v. State of Gujrat*² for nothing to decide involving the stamp duty and registration herein.

6. Accordingly, the Civil Revision Petition is allowed.

7. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. There shall be no order as to costs.

Dr. B. SIVA SANKARA RAO, J

Date:14-12-2017
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² 1996 SCC (1) 718