

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

C.R.P. No. 1074 OF 2015

AND

C.R.P.No. 6415 OF 2017

COMMON ORDER :

The 1st respondent in both these Revisions is the plaintiff, who filed O.S. No. 81 of 2012 in the Court of the III Additional District Judge (Fast Track Court) at Anantapuramu for refund of sale consideration of Rs. 77,44,000/- paid with respect to the registered sale deed, dated 06.07.2011, with costs, totalling Rs.1,05,14,132/- and the said suit is posted for cross-examination of D.W.1. At that stage, the defendants had taken out I.A. Nos. 875, 876 and 877 of 2014 to recall P.W.3 for further cross-examination with respect to 'Voppudala agreement' signed by him, to reopen the matter for further cross-examination of P.W.3 with respect to 'Voppudala Agreement' and to receive 'Voppudala Agreement' dated 06.07.2011 entered into between the plaintiff and the defendants.

The learned Judge had dealt with the matter, in detail, and opined that the contents of the document, scribed on a Rs.100/- stamp paper, which was sought to be marked, reveal that it is a sale transaction, hence, requires stamp duty and registration. Even if it were to be assumed that it is a relinquishment deed or gift deed, wherein the defendants relinquished their right and title over the plaint schedule property in favour of the plaintiff, then also, it requires registration, since there is transfer of ownership of property. The learned Judge, relying on the judgment of the Supreme Court in **Thayyil Mammo v. Kottlath Ramunni (AIR 1966 SC 337)**, wherein it was held that when there is change of ownership of immovable property, either by way of sale deed, gift deed or relinquishment deed, it requires registration, held that, in

the instant case, since the petitioner – defendant wanted to mark the said document to prove transfer of ownership, as it was unregistered and insufficiently-stamped, the same cannot be received. In that view of the matter, there is no necessity to reopen the matter and recall P.W.3 to confront him with respect to the said document. Hence, by a common order dated 17.09.2014, the learned Judge dismissed all the Applications.

Now, Civil Revision Petition No. 1074 of 2015 is against the order in I.A. No. 876 of 2014, whereas Civil Revision Petition No. 6415 of 2017 is against the one in I.A. No. 875 of 2014.

The case of the petitioner – defendants No.2 is that 'Voppudala Agreement', under which certain arrangement was made with respect to the suit transactions, was mis-placed at the time of filing the written statement and as the same is essential to support their case, the Interlocutory Applications may be allowed.

Learned counsel for the petitioner submits that the Court below had also come to the conclusion that the said 'Voppudala Agreement' relates to sale transaction and hence, it requires stamp and registration. In that view of the matter, if the same is not marked as documentary evidence, the petitioner would be put to irreparable loss, is the contention of the learned counsel.

Heard learned counsel appearing for the respondents.

A perusal of the material available on record shows that the entire case centers around the 'Voppudala Agreement', which, so far as it is relevant, reads as under:

"పిల్చి గ్రామంలో ఉండుకొన్ని పేరుకుల భవనము ఏమనగా ఈ లింగ
మూల 2 మరియు 3 అసలులు పిల్చిలు తెలుతా. ఇద్దరు మూల
3వ అసలును కలగించి తమంతా ఇవ్వడం జరిగినది. ఉత్తరాత్య
ఈ పిల్చిలు తెలుతా ఇద్దరి సుబంధుల మూల 2 మరియు 3

అసదులు కుమ్మరి గారి తో 2 మరియు 3 అసదులు
 సుమంతలపేట ముందు సభ్యుల ఎవ్వరినీ కైదే
 పాలకు తగినట్లు ఏర్పడిన యెడల సరి తగినట్లు
 2 మరియు 3 అసదులు సేవకు ఉద్దేశించి నిలిచి
 విజయకు నిర్వహించునది. అట్లే మహా 1వ అసదు
 భవిష్యత్తులో విజయకు చెప్పి ముందుకు వస్తే
 2 మరియు 3 అసదులు ఎందుకు సుమంతలకు
 ఉండకపోయి. అది మన సభ్యులకు నిర్వహించు భవిష్యత్తు
 నిర్వహణ విజయకు సహా.

The sum and substance of the said document is that Sri Kummata Pedda Hanumanta Reddy and Sri Kummata Kesava Reddy had sold the suit schedule land to Sri Nalabala Obulappa, who is the plaintiff and in the event of any disputes that may arise from the family members of the defendants, defendants 2 and 3 would solve the same at their expense. Likewise, with respect to any of the transactions that may be entered into by the plaintiff, defendants 2 and 3 would not have any objection.

By no stretch of imagination, the above said document can be construed either as a sale agreement or a sale deed. Hence, it can clearly be said that the learned Judge had committed an error in construing the 'Voppudala Agreement' dated 06.07.2011 as a sale deed, requiring stamp duty and registration. Though the reason stated by the petitioner for not producing the said document along with the written statement is not fully convincing, considering the nature of the document and the plea taken by the petitioner in support of his case, and also considering the fact that the suit proceedings were stayed in Civil Revision Petition No. 1074 of 2015, on 17.03.2015, this Court is of the opinion that the Interlocutory Applications No. 876 and 875 of 2014 deserve to be allowed. Hence, the order dated 17.09.2014, so far as it relates to I.A. Nos. 876 and 875 of 2014 is set aside.

Both the Revisions are therefore, allowed, subject to the following conditions:

- 1) the petitioner shall pay a sum of Rs.10,000/- (Rupees ten thousand only) to the plaintiff within a week from the date of receipt of a copy of this order;
- 2) defendants shall present themselves for the purpose of cross-examination on the date fixed by the Court, without fail and they shall not seek any adjournments for the said purpose.

It is made clear that this Court has not expressed any opinion as to the admissibility or otherwise of '*Voppudala Agreement*' and it will be open for the plaintiff to raise objections, if any with respect to the said agreement, even at the time of marking the same. No costs.

Consequently, the miscellaneous Applications, if any shall stand disposed of.

05th January 2018

Issue CC in three days.
ksld

CHALLA KODANDA RAM, J

