

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

CIVIL REVISION PETITION No.5233 OF 2011

Dated:16.11.2017

Between:

Repala Srinivasa Rao, S/o. Late Satyanarayana,
Aged about 42 years, formerly R/o.D.No.2-1-73,
Geetha Mandir Road, Narasaraopet, presently
R/o. Flat No.302, Krishna Towers, Srinivasa
Theatre Road, Narasaraopet, Guntur District .. Petitioner

And

Nomula Prasada Rao, S/o. Krishna Murthy,
Aged about 41 years, Occ: Business,
R/o.Narasaraopet, Guntur District .. Respondent



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**CIVIL REVISION PETITION No.5233 OF 2011****ORDER:**

Plaintiff filed O.S.No.220 of 2004 on the file of the Additional Senior Civil Judge, Narasaraopet, for recovery of money. In support of the claim that the plaintiff has advanced amounts to the defendant and the defendant failed to repay the amount borrowed, plaintiff sought to place reliance on ten hand letters given by the defendant. When these documents were sought to be relied upon by the plaintiff, the trial Court found that 'the documents are bonds and are liable to stamp duty under Article 13 of Schedule 1-A of Stamp Act, 1899 (for short, 'the Act') and since no stamp is affixed, are not admissible in evidence'. In view of the same, plaintiff filed I.A.No.996 of 2009 under Section 38 of the Act to send the documents in dispute to Collector under the Act for levying stamp duty and penalty. Accordingly, an order dated 20.10.2009 was passed. As a consequence to this order, the District Registrar by his order dated 25.05.2010 holding that ten hand letters are bonds and therefore are covered by Article 13 of Schedule 1-A of the Act, demanded amount of Rs.14,100/- with penalty at Rs.42,300/- towards deficit stamp duty. At this stage, plaintiff filed I.A. praying to decide the hand receipts sought to be marked as receipts covered by definition in Section 2 (23) of the Act and to enable the District Registrar to revise the quantification. The same was returned vide docket order dated 16.07.2010. Aggrieved thereby, petitioner filed C.R.P.Nos.3910 and 3911 of 2010. This Court by order dated 09.09.2011 dismissed the said revision petition on the ground that the order of the trial Court

dated 20.10.2009 is not challenged and therefore no relief can be granted. However, Court granted liberty to challenge the docket order dated 20.10.2009. Hence, this revision.

2. Learned counsel for the petitioner by taking through the content of the relevant document titled in Telugu as 'Cheuttaram' dated 16.04.2003 contends that it is only a receipt of acknowledgment of amount received and therefore is not a bond. The said documents are receipts covered by the definition incorporated in Section 2(23) of the Act and it cannot be described as a bond as defined in Section 2(5) of the Act and therefore does not attract stamp duty.

3. Learned counsel for the petitioner submits that the trial Court erred in relying upon the Full Bench judgment of this Court in ***Boliseti Bhavannarayana @ Venkata Bhavannarayana v. Kommuru Vullakki Cloth Merchant Firm, Tenali, rep., by Partner Kommuru Vullakki and others***¹. According to learned counsel, the said judgment has no application to the facts of this case. According to her, a similar issue was considered by this Court in ***Menda Joga Rao v. Varanasi Harinadham***² and the said decision is applicable to the facts of this case.

4. I have carefully considered the submissions made by learned counsel for the petitioner.

5. On a perusal of the document at page No.10 of the material paper book, it is written as 'Cheuttaram' and does not contain any word regarding repayment of the amount paid. Thus, as held by

¹ 1996 (1) ALT 917 (F.B.)

² 2011 (4) ALT 14

this Court in **Menda Joga Rao** (2 supra), it can only be classified as a 'receipt' defined in Section 2 (23) of the Act and the ingredients of 'bond' as defined in Section 2(5) of the Act are not attracted. Thus, the decision of the Full Bench of this Court in **Bolisetti Bhavannarayana** (1 supra) has no application to the facts of the present case. The trial Court erred in not appreciating the text of the documents in issue in directing impounding of the document.

6. The Civil Revision Petition is accordingly allowed and the order under revision is set aside. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

Date:16.11.2017

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P. NAVEEN RAO, J

