HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

C.R.P. No.1558 of 2015

ORDER:

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

2. In the affidavit filed in I.A. No. 483 of 2014 by defendant No.1 before the lower Court, though it is pleaded about the unregistered document dated 01.05.1961 of the alleged purchase thereunder by their grand mother by name Bitla Mallamma from one Nookala Raghuveer Reddy, the same was not filed with the written statement but for in seeking to file it with the petition filed in the year 2014. The petition was, after contest by the plaintiff/ respondent, allowed by the impugned order dated 24.12.2014, by the Junior Civil Judge, Nalgonda.

3. The lower Court unnecessarily went into other aspects of the admissibility of the document. In fact, receiving of documents is different from exhibiting of the documents subject to admissibility, relevancy and proof.

4. So far as the admissibility of stamp duty and registration concerned, the law is well settled that it requires instantaneous decision while marking for any objection. The other objections can be deferred till final disposal as laid down by the Apex Court in ***Bipin Shantilal Panchal vs State of Gujarat***[1].

5. Here, so far as the document in question sought for receiving by the 1st defendant and received by trial Court despite opposed by

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[1] AIR 2001 SC 1158

the plaintiff covered by the impugned order concerned, it is the original document either not stamped or not registered.

6. Once this original document is within the meaning of instrument under Section 2 (14) of Indian Stamp Act, and if it is not stamped or not duly stamped, it can be impounded by the Court with 10 times penalty to the Stamp duty, if not asked, by the party, who was asked to pay that, in relying on the document, to refer to the District Registrar for its impounding and certifying. If it is not the original and when, it is not an instrument, the question of marking does not arise and such a document cannot be received even as a secondary evidence.

7. All these aspects are clearly considered in the latest expression of this Court in ***Budda Jagadeeswar Rao vs Sri Ravi Enterprises***[2]. It is clearly laid down in the expression that there is no collateral purpose known to Stamp Act but for Registration Act and once the document insufficiently stamped, if the stamp duty is deposited as impounded by the Court or Collector, District Registrar, as the case may be, it is as good as originally duly stamped. So far as unregistered document is concerned, it is once compulsorily registerable under Section 17 of Registration Act, as per Section 49 of the Registration Act, it is inadmissible but for from its provisio on three contingencies viz., in a suit for specific performance of contract for sale, in doctrine of part performance and for any collateral purpose. Despite the amendment to the Stamp Act by Section 17 of the Registration Act by A.P. Amended Act 4 of 1999 w.e.f. 01.04.1999 for no such amendment to Section

[2] CRP No.1850 of 2015 dated 23.08.2016

49 of the Registration Act though undisputedly by Amended Act 48 of 2001 by the Central Government w.e.f. 24.09.2001, section 53-A of Transfer of Property Act and the middle clause of the three clauses of the provisio to Section 49 of the Registration Act, only amended and the collateral purpose concept is not amended. Once such is the case, after duly stamped, an unregistered document for a collateral purpose can be received. That is also laid down by this Court in Budda Jagadeeshwara Rao (supra).

8. Having regard to the above, there is nothing to find fault with receiving of the document but for if at all subject to costs in belated filing. The other objection in the order regarding the requirement of stamp duty and registration concerned, the trial Court can proceed at the time of exhibiting or marking as per the requirement of Stamp Act for impounding and, if at all paid and if not and chosen to make a request to refer to the District Registrar to refer as laid down in Budda Jagadeeswara Rao (supra) from the expression of the Apex Court in ***Chilakuri Gangulappa vs Revenue Divisional Officer, Madanapalle***[3], to any collateral purpose, if at all to be served, to exhibit for such purpose and subject to any other objections to decide ultimately as to what is the collateral purpose.

9. With these observations and subject to costs of Rs.2,000/- for receiving the document, to be deposited before the lower Court within 15 days from the date of receipt of copy of this order, the revision is disposed of.

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[3] 2001 (3) SCC 1

Consequently, miscellaneous petitions, if any pending in this revision shall stand closed. There shall be no order as to costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 10.11.2017
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