

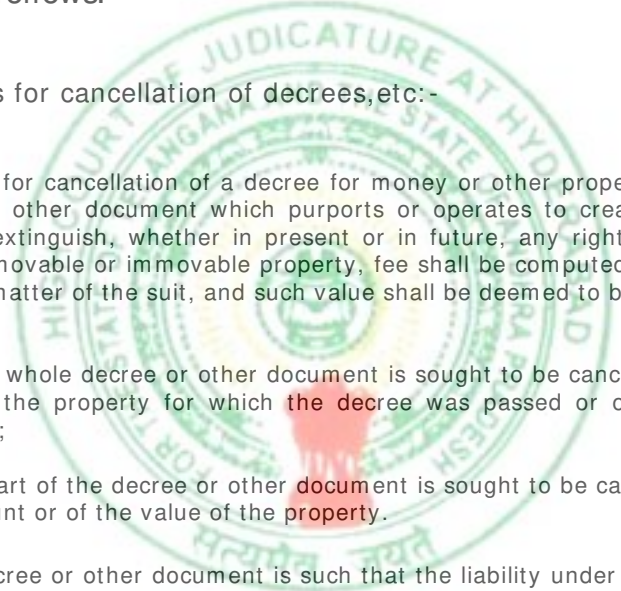
HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Civil Revision Petition No.3004 of 2016

ORDER :

Proof of service filed. Heard. Perused the grounds of revision and the impugned order of the lower Court, dt.08.09.2014 in I.A.No.86 of 2012 in pending suit O.S.No.8 of 2003. The suit is filed for cancellation of the registered document i.e. deed of settlement,dt.13.08.2001 with face value of Rs.4,00,000/- valued u/ sec.37 of the Andhra Pradesh Court Fee and Suit Valuation Act,(for short, 'the Act'), 1956. Section 37 of the Act, reads as follows:-

37.Suits for cancellation of decrees,etc:-

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- (1) In a suit for cancellation of a decree for money or other property having a money value, or other document which purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest in money, movable or immovable property, fee shall be computed on the value of the subject-matter of the suit, and such value shall be deemed to be-
 - (a) if the whole decree or other document is sought to be cancelled, the amount or value of the property for which the decree was passed or other document was executed;
 - (b) if a part of the decree or other document is sought to be cancelled, such part of the amount or of the value of the property.
 - (2) If the decree or other document is such that the liability under it cannot be split up and the relief claimed relates only to a particular item of property belonging to the plaintiff or to the plaintiff's share in any such property, fee shall be computed on the value of such property or share or on the amount of the decree, whichever is less.

In *Sateedevi Vs. Prasanna*¹ the Apex Court held referring to Section 37 of the Act, in relation to the value for the purpose of determination of court fee in case of cancellation of sale deed, the valuation of the suit on the basis of consideration mentioned in the sale deed are to be valued on the basis of market value of the property as on the date of filing of the plaint for the purpose of Court fees and

¹ 2010 5 SCJ 120

jurisdiction as the basis. Even from the very wording of the Section, the value for the purpose of court fee and jurisdiction is the same.

Once such is the case, as per the Civil Courts Act and even from the Full Bench judgment of this Court in Kalla Yadagiri Vs. Kotha Bal Reddy², the value for the purpose of Court fees is the value to be taken for the purpose of jurisdiction. Even therefrom from the very plaint in the valuation paragraph, the value of the suit relief is shown Rs.4,00,000/- which is above Rs.3,00,000/- for the purpose of court fee and jurisdiction . Even therefrom, once the learned Senior Civil Judge got jurisdiction upto ten lakhs of pecuniary value as on the date of filing of the suit, it cannot be contended of the learned Senior civil Judge has no pecuniary jurisdiction and what is the contention that the document mentioned as of Rs.4,00,000/- but the property is Rs.4,00,000/- per acre and it is about more than three acres thereby exceeds Rs.10,00,000/- pecuniary value is not correct from the reading of the very plaint averments. If at all the plaint is undervalued, it is left open to the defendant to raise one of the contentions for the Court ultimately to decide including u/ sec.11 of the Act, if at all to fix the property value in directing to pay deficit court fee when such power of Court is available right from the filing of the suit till pronouncement of judgment.

Accordingly, with these observations, the revision is disposed of for nothing to interfere. Consequently, Miscellaneous Petitions, if any, pending in this Revision, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date:28.12.2017

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² 1999 (1) ALD 222=1999 (1) ALT 211