THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.774 OF 2016

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India, challenging the docket order dated 23.11.2015 in O.S.No.315 of 2010 passed by the XIV Additional District Judge, Ranga Reddy District, L.B.Nagar, holding that the document marked as Ex.A-1 is insufficiently stamped, and it requires registration.

The present civil revision petition is filed challenging the order passed by the Court below, contending that the document is not required to be registered, in view of proviso to Section 49 C.P.C, in a suit filed for specific performance and such unregistered agreement of sale can be received as evidence and the finding of the Trial Court that the document is required to be registered in a suit for specific performance is erroneous.

Learned counsel for the petitioner fairly conceded that, he is prepared to pay the requisite stamp duty and penalty, if any, as per Section 35 of the Stamp Act.

Admittedly, the suit was filed for specific performance of sale and the recitals of agreement disclosed that the petitioner agreed to execute sale deed after completion of transaction and possession of the property was also delivered under Ex.A-1, though styled as declaration, the essence it is an agent of sale. When the agreement was styled as declaration, evidencing delivery of possession, it would fall within Article 47(A) of Schedule-I-A of the Stamp Act, as amended by A.P. Amendment Act 17 of 1986 and the petitioner is liable to pay stamp duty in terms of Explanation 1 to Article 47(A) of Schedule-I. Thus, the petitioner is under obligation to pay stamp duty and penalty in terms of Section 35 of the Stamp Act, as he readily agreed to pay stamp duty by making an appropriate application to impound the document. Therefore, the order passed by the Court below to the extent that document Ex.A-1 requires stamp duty and penalty is upheld, while setting-aside the finding that the document is compulsorily registerable document, in view of the judgment of this Court in **R. Suresh Babu v. G. Rajalingam and others**[1].

In the result, the civil revision petition is allowed-in-part, setting-aside the finding of the Trial Court that the document Ex.A-1 is compulsorily registerable and not admissible in evidence, while upholding the finding that the petitioner is required to pay stamp duty and penalty in terms of Article 47(A) Explanation I of Schedule I-A of Indian Stamp Act, read with Section 35.

Consequently, miscellaneous applications pending if any, shall stand closed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:13.03.2018

Note: Issue copy by 16.03.2018
b/o

SP

---

[1] 2017 (1) ALT 668