

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRP.No.2526 of 2011

ORDER.

This Civil Revision Petition, under Article-227 of the Constitution of India, is filed challenging the order, dated 16.3.2005, in O.S.No.246 of 2005 passed by the III Additional District Judge, (Fast Track Court), Bhimavaram, whereby the Court below directed the petitioner to pay the stamp duty and penalty on the lease agreement based on the lease amount for a period of one year as the document was executed on Rs.100/- stamp paper in terms of Schedule-I Article-35 of the Indian Stamp Act.

The main contention urged by the petitioner before this Court in this Revision is that the said lease deed cannot be valued since the condition in the said agreement is for payment of Rs.600/- as lease amount for each working hour during the lease period and that the document cannot be valued in terms of lease amount and that Article-35 of Schedule-I has no application to the State of Andhra Pradesh for collection of stamp duty and penalty. The trial Court committed an error in issuing a direction for payment of stamp duty and penalty based on one year lease amount and prayed to set aside the impugned order passed by the Court below.

Learned counsel for the petitioner–Sri V.S.R.Anjaneyulu, contended that the lease amount agreed to be paid is Rs.600/- per working hour and in the absence of any specific working hour per day and working days, assessing the stamp duty and penalty based on one year lease amount is illegal and prayed to set aside the impugned order.

Whereas learned counsel for the respondents–Sri K.Chidambaram, contended that the said document is liable for stamp duty and penalty, and unless the same are paid, it cannot be admitted in evidence and he supported the impugned order passed by the Court below in all respects.

Considering rival contentions and perusing the material on record, the points that arise for consideration of this Court is:

“Whether the lease agreement leasing Tata Hitachi Poclain is liable for payment of stamp duty and penalty and if so, whether the impugned order passed by the Court below is sustainable in law ?”

The document is styled as “lease agreement” leasing out Tata Hitachi Poclain on hourly basis at the rate of Rs.600/- per working hour during the lease period and respondent No.1 paid an amount of Rs.35,000/- as advance hire charges subject to other conditions contained in the lease agreement.

As the Poclain was leased out on hourly basis, in the absence of particular period of working, it is difficult to assess the value of the document based on the hourly rate since

sometimes they may engage the Poclain for one hour or sometimes for 24 hours. However, the trial Court directed the petitioner to pay the stamp duty and penalty on the said lease document as per Schedule-I Article-35 of the Indian Stamp Act.

But, Schedule-I Article-35 of the Indian Stamp Act has no application for the State of Andhra Pradesh and the stamp duty payable within the State is governed by Schedule-1(A) Article-31 of the Andhra Pradesh Amendment Act 4 of 1999. Therefore, the impugned order passed by the Court below is erroneous on the face of the record and the same is irregular.

At the same time, the direction issued by the Court below to asses the value of the lease agreement based on the annual rent basis is without any legal basis and on this ground, the impugned order is liable to be set aside.

Hence, the trial Court is directed to assess the stamp duty payable on the lease deed under Schedule-1-A Article-31 of the Andhra Pradesh Amendment Act 4 of 1999 and collect the stamp duty and penalty thereon or impound the document, if any application is filed by the petitioner referring the document for assessment of stamp duty and penalty payable on it to the Collector under the provisions of the Indian Stamp Act.

Subject to the above direction and observation, the Civil Revision Petition is allowed.

As a sequel, the Miscellaneous Petitions, if any, pending shall stand dismissed.

JUSTICE M.SATYANARAYANA MURTHY

06th March 2018

DR

