THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION NO.4864 OF 2017

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India, assailing the order, dated 31.07.2017 passed in O.S.No.275 of 2008 on the file of the XIV Additional District and Sessions Judge, Ranga Reddy District at L.B. Nagar, Hyderabad.

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that the 1st respondent filed O.S.No.275 of 2008 on the file of the Court of XIV Additional District and Sessions Judge, Ranga Reddy District at L.B. Nagar, Hyderabad, against the petitioner and respondents 2 to 59 for specific performance of oral agreement of sale. During the course of trial, the 1st respondent tendered receipt, dated 24.08.2007 for the purpose of marking. The petitioner raised an objection for marking of the receipt. The trial Court, after hearing both parties, permitted the 1st respondent to mark the receipt subject to payment of stamp duty and penalty. Feeling aggrieved by the order dated 31.07.2017 in O.S.No.275 of 2008, the present revision is preferred.

4. The point that arises for consideration is whether there is any illegality, irregularity or impropriety in the impugned order?

5. The predominant contention of the learned counsel for the petitioner is that the document in question cannot be marked in view of Rule 6 of Indian Stamp Rules, 1925. He further submitted that neither the petitioner nor the 1st respondent purchased the stamp, on which, the

alleged receipt was written. He further submitted that the 1st respondent created the receipt in order to deprive the legal rights of the petitioner.

6. **Per contra,** learned counsel for the 1st respondent strenuously submitted that Rule 6 of Indian Stamp Rules, 1925 has no application to the facts of the case on hand. He further submitted that the validity or otherwise of the receipt will be decided during the course of trial only.

7. It is not in dispute that the 1st respondent filed the suit basing on the oral agreement of sale. The question that falls for consideration is whether the document in question would fall within the ambit of Rule 6 of the Indian Stamp Rules, 1925. This Court carefully perused the receipt, which was prepared on one hundred rupee stamp paper. As rightly pointed out by the learned counsel for the petitioner, neither 1st respondent nor the petitioner purchased the stamp paper. A perusal of the record reveals that the stamp paper was purchased by one C.Smitha. In order to appreciate the contention of the learned counsel for the petitioner, it is not out of place to extract Rule 6 (2) of Indian Stamp Rules, 1925, which reads as under:

> "A stamped paper, on which the stamp has been engraved or embossed purchased by or for the use of a person shall be used only, by that person or his legal representative or duly authorized agent of such person."

A perusal of the above clause at a glance demonstrates that the stamp paper can be used by a person, who purchased the same. Suffice it to say that the receipt does not require to be engraved or embossed on a stamp paper. A receipt can be prepared even on a white paper subject to payment of stamp duty. In the instant case, 1st respondent did not affix the required stamp on the receipt. The trial Court in para 7 of its order made an observation that Rule 6 (2) of Indian Stamp Rules, 1925 is not applicable to the document in question. The trial Court made an observation that the document in question is a receipt, which requires stamp duty under Section 35 (b) of the Indian Stamp Act. In view of Section 33 of the Indian Stamp Act, the trial Court sent the document to the District Registrar for impounding the document by collecting requisite stamp duty and penalty. The trial Court considered various provisions of the Indian Stamp Act and Indian Stamp Rules, 1925 and allowed the petition by rejecting the objection raised by the petitioner. The document which requires to be prepared on a stamp paper has to be purchased by one of the parties to the document. If this Court expresses any opinion, with regard to genuineness or otherwise of the document in question, the same may cause prejudice to one of the partiers to the proceedings. The trial Court at appropriate stage will decide validity of the document. Viewed from any angle, the order passed by the trial Court is sustainable. There is no illegality, irregularity or impropriety in the order of the trial Court, which warrants interference of this Court.

8. Accordingly, the Civil Revision Petition is dismissed. No order as to costs. Miscellaneous petitions, if any pending, in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

DATED: 19-09-2018.
Hsd