

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.924 OF 2016

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India, challenging the docket order dated 07.01.2016 in O.S.No.500 of 2008 passed by the I Additional Senior Civil Judge at Rajahmundry, marking Registered Rectification Deed dated 07.10.1968 as exhibit and overruled the objection raised by the learned counsel for the petitioner regarding admissibility for non-registration.

The only objection raised in the counter filed by the petitioner is that, as the rectification deed is to rectify the mistake in the registered settlement deed, as it is unregistered, it is inadmissible in evidence. But, the Court below did not decide the objection virtually regarding stamp duty and penalty payable on the document.

However, the Supreme Court in **State, through Special Cell, New Delhi v. Navjot Sandhu @ Afshan Guru and Ors¹** suggested a procedure to be followed whenever an objection is raised during the evidence taking stage regarding the admissibility of any material or item of oral evidence and further held that said procedure would save time in the trial Court. The said portion of the judgment of the Apex Court at Paragraph Nos. 14 and 15 is extracted as under for ready reference:

"14.... Whenever an objection is raised during evidence-taking stage regarding the admissibility of any material or item of oral evidence the trial Court can make a note of such objection and mark the objected document tentatively

¹ 2003 (1) DT (SC) 490

as exhibit in the case (or record the objected part of the oral evidence) subject to such objections to be decided at the last stage in the final judgment. If the Court finds at the final stage that the objection so raised is sustainable the Judge or Magistrate can keep such evidence excluded from consideration. In our view there is no illegality in adopting such a course. (However, we make it clear that if the objection relates to deficiency of stamp duty of a document the Court has to decide the objection before proceeding further. For all other objections the procedure suggested above can be followed.)

However, this Court in **Mulla Alamsabgari Dastigiri vs B. Pullamma And Ors**², reiterated the same principle held by the Supreme Court **Navjot Sandhu** case (referred supra).

Therefore, the finding regarding admissibility in the docket order dated 07.01.2016 is set-aside, while postponing order as to admissibility till the end of trial. Further, the Trial Court is at liberty to record admissibility of the document for want of registration at the end of trial, by applying the principles laid down in the above two judgments.

With the above direction, the civil revision petition is allowed, setting-aside the docket order dated 07.01.2016 in O.S.No.500 of 2008 passed by the I Additional Senior Civil Judge at Rajahmundry, to decide the objection as to admissibility due to want of registration, at the end of trial.

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

JUSTICE M. SATYANARAYANA MURTHY

Date:13.03.2018

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² 2004 (4) ALD 82