

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CIVIL REVISION PETITION No.34 of 2014

ORDER:

This civil revision petition is filed questioning the order, dated 07.08.2013, passed in C.F.No.1090 of 2013, by the Junior Civil Judge, Peddapalli, at the time of numbering the suit.

The suit was filed for declaration that a registered document bearing document No.1016/2013, dated 25.03.2013, is null and void and is not binding on the plaintiff. The plaintiff's claim is that prior to the said registered document itself, there is a sale deed in his favour. Therefore, he is questioning the document, dated 25.03.2013.

The suit was nominally valued under Section 24(b) of the A.P.Court Fees and Suits Valuation Act, 1956 (for short "the Act"). Office took an objection about the court fee and the same was argued. By the impugned order, the court below directed the valuation of the suit under Section 24(d) only and returned the plaint.

This court has heard Sri P.V.Narayana Rao, learned counsel for the petitioner, who relied upon judgments of this court in *Mohd.Ikramuddin v. Sangram Bosle and others*<sup>1</sup> and *Nade Ali Mirza v. Khalida Mohammed Salim Dawawala*<sup>2</sup>. The two learned single Judges of this Court clearly held that in a case of this nature, when the plaintiff is not a party to the registered document, he need not pay court fee under Section 37 and he can pay nominal court fee under Section 24(b) of the Act.

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<sup>1</sup> 2007 (5) ALD 863

<sup>2</sup> 2016 (1) ALT 300

Learned counsel also points out that in *Nade Ali Mirza v. Khalida Mohammed Salim Dawawala* (2 supra), the learned single Judge of this Court went through a number of decisions of the Hon'ble Supreme Court and came to the conclusion that a person who is not a party to the registered document, may treat it as non-existent and sue for his right as if it did not exist. The learned single Judge also considered various provisions of the Act and came to the conclusion that the court cannot insist on payment of court fee by a person who is not a party to the document.

Learned counsel also points out that in para-47 of the judgment in *Nade Ali Mirza v. Khalida Mohammed Salim Dawawala* (2 supra), the learned single Judge also distinguished the citations relied upon by the lower court in this case while passing the impugned order.

In these circumstances, the civil revision petition is allowed. The court below is directed to register the plaint, if it is otherwise in order, accepting the valuation. This order does not preclude the respondents/defendants to raise any objection before the court below, if they wish to do so. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

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D.V.S.S.SOMAYAJULU,J

Date: 15.11.2018  
Dsr