HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.26314 OF 2005

ORDER

This writ petition is filed seeking to issue a Writ of Certiorari calling for the records relating to and connected with proceedings No.A2/4983/2004, dated 12.09.2005 issued by the 1st respondent and quash or set aside the same by holding it as arbitrary and illegal.

Heard Sri V.Ravi Kiran Rao, learned counsel appearing for the petitioners and learned Government Pleader for Revenue appearing for respondents 1 and 2.

It is the case of the petitioners that the deceased 1st petitioner purchased a house bearing No.6-89 situated at Durki galli, Rudroor Village, Varni Mandal, Nizamabad District by agreement of sale dated 18.7.2000 executed by the 3rd and 4th respondents for a total consideration of Rs.33,551/-. After entering into an agreement of sale, the petitioner was put in possession by respondents 3 and 4 and since then, he has been in possession and enjoyment of the said house as an absolute owner and he has been paying property tax regularly to the gram panchayat. Though the petitioner was put in possession by respondents 3 and 4, respondents 3 and 4 refused to execute registered sale deed. In those set of circumstances, the deceased 1st petitioner had filed O.S.No.34 of 2003 before the Junior Civil Judge, Bodhan, against respondents 3 and 4 for specific performance. The agreement of sale on whose strength the deceased 1st petitioner had purchased the house is not a registered document and it was executed on Rs.40/- stamp paper. As the said document is an unregistered instrument, the petitioner had approached respondents 1 and 2 for impounding the document, the 1st respondent had valued the document as Rs.75,500/- as on 12.9.2005, instead of taking the value of the property prevailed as on the date of execution of the said document worth Rs.33,551/-, and imposed the stamp duty of Rs.4,530/- and imposed a penalty of Rs.22,450/-.

Learned counsel for the petitioner contends that imposing a penalty of Rs.22,450/- while impounding the agreement of sale is arbitrary and illegal.

Learned Government Pleader appearing for the respondents contends that whenever a document is to be impounded as on that date, the existing market value has to be taken into account while impounding the document and the 1st respondent has rightly taken the existing market value of Rs.75,500/- in stead of Rs.33,551/- being the value at the time of executing agreement of sale.

This Court has considered the rival submissions made by the learned counsel on either side and this Court is of the considered view that the penalty of Rs.22,450/- for impounding the document is too harsh because the entire sale consideration of the house is Rs.33,551/-.

Hence, ends of justice would be met if penalty imposed against the deceased 1st petitioner is waived and the 1st respondent is directed to impound the said document on payment of stamp duty of Rs.4,530/- by the petitioners.

Accordingly, the penalty imposed in the impugned proceedings dated 12.9.2005 is set aside and the 1st respondent is directed to impound the document on payment of stamp duty of Rs.4,530/- by the petitioners so as to enable them to pursue the remedies against respondents 3 and 4 in appropriate forum.

Accordingly, the Writ Petition is disposed of. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

14th March, 2018
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