

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition No.1949 of 2018

ORDER:

Aggrieved by the dismissal of an application under Order XIII Rule 8 of the Code of Civil Procedure, 1908 for impounding a possessory agreement of sale, the 3rd defendant in the suit has come up with the above revision.

2. Heard Mr. Sai Gangadhar Chamorthy, learned counsel for the revision petitioner and Mr. P. Prabhakara Rao, learned counsel representing Mr. Subba Rao Korrapati, learned counsel for the 1st respondent-plaintiff.

3. The only ground on which the trial Court dismissed the application for impounding the possessory agreement of sale is that the description of property contained in the document does not tally with the description of property contained in the plaint schedule. But this is not a stage at which the schedule to the agreement of sale has to be compared with the plaint schedule. If a party to a proceeding seeks to file an unstamped or insufficiently stamped document, the first duty of the court is to impound it. The question whether the document relates to the property in dispute or not is a question that comes up for consideration later. It is the party who seeks to file the document that takes the risk of getting it impounded. The court is not expected to go to his rescue.

4. Therefore, the Civil Revision Petition is allowed, the impugned order is set aside and the application in I.A.No.60 of 2018 in O.S.No.103 of 2016 shall stand allowed. The Court below shall

impound the document. Thereafter, the question whether the property covered by the document relates to the plaint schedule property or not, can be looked into at the time of trial, when both parties will be entitled to lead evidence on the same. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

Date: 07-09-2018

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