

THE HON'BLE SRI JUSTICE S.V.BHATT

C.R.P.No.2802 of 2013

ORDER:

Heard Mr.S.R.Sanku and Mr.M.Rajamalla Reddy for the parties.

The subject matter of civil revision petition No.1791 of 2012 is the nature of document and the stamp duty together with the penalty payable on Ex.A1 dated 25.07.2007.

The learned single judge, vide order dated 20.09.2012 after taking note of the recitals in Ex.A1 held as follows:

“On a careful consideration of the document in its entirety, I am of the opinion that the same cannot be treated as a mere agreement and it falls under the definition of bond in Section 2(5) (b) of the Indian Stamp Act, 1899 (for short ‘the Act’) which reads as under:

“Section 2(5) “Bond”: “Bond” includes-

(a).....

(b) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another;

(c)”

As the petitioner alleged obliged to pay money to the respondent, the instrument clearly falls under the definition of bond. The lower Court has, therefore, committed a serious jurisdictional error in totally misconstruing the instrument as an agreement not requiring additional stamp duty.

For the above-mentioned reasons, the order under revision is set aside and the lower Court is directed to treat the document in question as bond and take appropriate steps in accordance with the provisions of the Act, if it is found that the same is not sufficiently stamped.

The civil revision petition is accordingly allowed.”

Thereafter, the plaintiff filed application No.415 of 2013 under Sections 41 and 41-A of Indian Stamp Act, 1899 to send Ex.A1 of District Registrar, Karimnagar for determination of stamp duty and penalty payable thereon. To the order impugned in the revision, the learned Principal District Judge, keeping in view the directions issued by this Court in CRP.No.1791 of 2012 allowed the application and sent Ex.A1 to District Registrar, Karimnagar for impounding.

Mr.Sanku.S.R places strong reliance on ***Chilakuri Gangullappa vs. Revenue Divisional Officer, Madanpalle and others***¹ and contends that the learned Principal District Judge ought to have determined the payment of stamp duty and 10 times penalty made the respondent herein deposit the entire amount, proceed with the trial and subject to the determination by the competent authority, the deficient of stamp duty etc., could have been adjusted. In the case on hand, without undertaking that exercise, sending the document straightaway to District Registrar is illegal and amounts to refusing to exercise discretion conferred on the Court.

Mr.Rajamalla Reddy per contra contends that the learned trial Judge has found that Ex.A1 is found to be insufficiently submitted, therefore both for verification of value and stamp duty payable refraining from exercising the discretion, called upon the

¹ (2001) 4 SCC 197

respondent to deposit the deficit stamp duty and penalty but called upon the authority conferred with the jurisdiction to do the function assigned to it. According to him, it is for the respondent to look out for a curable defect in Ex.A1 which can be cured through the process known to law. The revision petitioner cannot and could not insist to deposit the money as a condition precedent on the decision of the trial Court. He prays for dismissing the revision.

I have perused the record and at the first blush, this Court was also persuaded to examine the submission canvassed by Mr.Sanku S.R, but after going through the order of this Court in CRP.No.1791 of 2012, this Court is of the view that insofar as Ex.A1 is concerned, while disposing of the civil revision petition, this Court directed the learned Principal District Judge to act in accordance with the provisions of the Act (Stamp Act). The learned Principal District Judge taken note of the directions issued by this Court and accepted the prayer in I.A.No.415 of 2013. This Court, if accepts the submission of revision petitioner, the same would be resulting in anomalous situation to the order passed by this Court in CRP No.1791 of 2012. Keeping in view the totality of circumstances and the manner in which the discretion is exercised by the learned trial Judge, I am convinced no ground is made out for interfering with the order in the revision.

The Civil Revision Petition fails and accordingly dismissed.
No order as to costs.

The learned trial Judge is directed to send the document to District Registrar within two weeks from the date of receipt of copy of this order with a further request to return the impounding document as expeditiously as possible preferably within four weeks thereafter. The District Registrar considers adhering to the time schedule stipulated in this order. The suit is of the year 2010. The trial court takes all the steps necessary for expeditious disposal preferably within three months from the date of receipt of Ex.A1.

Miscellaneous petitions, if any, pending, shall stand closed.

Dt: 30.08.2018
dv



S. V. BHATT, J

