

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**CIVIL REVISION PETITION No.2352 of 2016****ORDER:**

This Civil Revision Petition under Article 227 of the Constitution of India is filed challenging the Order dt.13.04.2016 in I.A.No.359 of 2016 in O.S.No.1010 of 2013 passed by XIV Additional District Judge, Ranga Reddy District at L.B.Nagar, allowing the petition filed under Section 35 of the Indian Stamp Act to refer the documents i.e., Receipts dt. 22.11.2011 and 15.06.2013, to the Registrar for impounding the documents, which are not stamped/insufficiently stamped.

As seen from the Order under challenge, the petitioner herein reported no Counter and therefore, the petition was allowed.

Aggrieved by the single line Order, the present revision is filed under Article 227 of the Constitution of India on various ground, mainly on the ground that the suit document is a promissory note and whereas the documents sought to be impounded are the Receipts dt. 22.11.2011 and 15.06.2013 and they cannot be impounded when a petition under Order 7 Rule 11 CPC is pending for rejection of the plaint.

During hearing, Petitioner/party-in-person reiterated those two grounds; whereas Sri Avinash Desai, learned counsel for the respondent supported the order while drawing attention of this Court to Section 33 of the Indian Stamp Act, which permits the Court to refer the document to impound, since the Stamp Act is a fiscal enactment and in case the document is not impounded, it

would cause loss to the public exchequer and it is the duty of the officer before whom the document is produced to refer the document for impounding and pendency of the petition under Order 7 Rule 11 CPC has nothing to do with the Order passed by the trial Court and therefore, this Court cannot interfere with the Order passed by the trial Court as the Petitioner reported no counter before the trial Court.

A bare look at the Order passed by the trial Court, the petitioner herein reported no Counter and therefore, the trial Court allowed the petition referring two documents i.e., receipts dt. 22.11.2011 and 15.06.2013 to the District Registrar for the purpose of impounding. But, the contention before this Court is that during pendency of the petition filed under Order 7 Rule 11 CPC referring the documents to the Registrar for impounding the documents is impermissible. This contention is without any legal basis for the reason that Order VII Rule 11 CPC deals with rejection of plaint under three circumstances. According to Order XIII Rule 8 CPC, notwithstanding contained in Rule 5 or Rule 7 of this Order or in Rule 17 of Order VI, the Court may, if it sees sufficient cause, direct any document or book produced before it in any suit to be impounded and kept in the custody of an officer of the Court, for such period and subject to such conditions as the Court thinks fit. Order XIII Rule 9 deals with Return of admitted documents. Therefore, it is the obligation of the officer, before whom such insufficiently or unstamped document is produced, to refer the document for impounding, irrespective of the stage of the case and pendency of any petition before the

Court. Consequently, mere pendency of the petition under Order VII Rule 11 CPC will not come in the way of impounding the document since it is the duty of the officer before whom the document is produced to refer the document to impound, otherwise, it would cause loss to the public exchequer. Therefore, on this ground, the Order of the trial Court cannot be interfered.

The other contention raised before this Court is that the suit document is a promissory note, whereas the documents referred to the Registrar for impounding by exercising power under Order XIII Rule 8 CPC are only receipts. These two receipts are the documents relied upon though not sued upon unless they are impounded either by the Registrar or by collecting deficit stamp duty and penalty by Court itself. Therefore, to admit the documents, the insufficiently stamped documents either impounded or stamp duty and penalty is paid before the Court itself in terms of Section 33 and 35 of the Indian Stamp Act. Hence, I find no ground to interfere with the Order under challenge in this revision. Consequently, the present petition is devoid of merit and deserves to be dismissed.

Accordingly, this Civil Revision Petition is dismissed.

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

M. SATYANARAYANA MURTHY, J

Date: 23-10-2018.
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HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRP. No. 2352 of 2016

Dt. 23-10-2018

