

HON'BLE SRI JUSTICE S.V.BHATT

C.R.P. No.4641 OF 2012

ORDER:

Heard Mr.Damodar Mundra, Mr.R.A.Atchutanand and Mr.Sikanth Reddy for the parties.

The plaintiff in O.S. No.7 of 2006 in the Court of II Additional District Judge, Ranga Reddy District, is the revision petitioner. The revision is directed against the order dated 10.07.2012 declaring suit agreement as not admissible in evidence.

The revision petitioner filed the suit for specific performance of agreement of sale dated nil -07-2005. The suit agreement is alleged to have been executed by the 1st respondent. For the reasons stated in the plaint, the suit is filed for specific performance. The revision petitioner along with the chief affidavit filed Exs.A1 to A4. The respondents/defendants objected to marking Ex.A1 on the ground that Ex.A1 though captioned as agreement of sale, incorporates all the conditions which are present in a sale deed evidencing out and out transfer of immovable property of more than Rs.100/-. The suit agreement, hence, is inadmissible for not conforming to both the Stamp Act and the Registration Act. The legal obligation to pay stamp duty on agreement of sale evidencing possession is no more *res-integra* and Mr.Damodar Mundra having regard to the ratio laid down in the decisions in Omprakash v. Laxminarayan¹ and Rajoli Siva Rami Reddy v. Malepati Subba Rangaiah² submits that the objection raised under

¹ (2014) 1 SCC 618

² 2011 (5) ALD 710

the Stamp Act which is accepted by the trial Court does not warrant interference of this Court. He states that his client is allowed to pay stamp duty and penalty in accordance with law and thereafter present the document in evidence. As regards objection under the Registration Act, he contends that the suit is one for specific performance to what extent the document is admissible under Section 49 can be considered after the defect under the Stamp Act is attended to.

Mr. Sikanth Reddy contends that the suit agreement except for the heading satisfies all the requirements of a sale deed and in view of the law laid down by this Court in *Banguru Ramathulasamma v. Yedem Masthan Reddy*³, the suit agreement is inadmissible under Section 17. Therefore, prays for dismissing the CRP.

I have perused the record and noted the submissions of learned counsel appearing for the parties.

This Court after perusing the ratio in *Omprakash and Rajoli Siva Rami Reddy* cases referred supra, is of the view that the objection raised under the Stamp Act against the suit agreement is tenable and therefore, the petitioner is required to get the document impounded in accordance with law. The objection under the Registration Act is concerned this objection can be left open for consideration by the trial Court, if raised by a party after the defect under the Stamp Act is attended to. For the above reasons, the CRP is dismissed. Liberty is given to revision petitioner to get the stamp duty and penalty on suit agreement paid and the

³ 1998 (5) ALD 502

objection under the Registration Act is left open for consideration by the trial Court at appropriate stage.

The trial Court considers and disposes of the suit as expeditiously as possible, preferably within two months from the date of receipt of a copy of this order.

No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date:20-09-2018

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