

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.3268 of 2018

ORDER :

Heard the counsel for petitioner, and Sri P. Raja Sekhar, counsel for respondent.

2. This Civil Revision Petition arises out of order dt.24.04.2018 passed in O.S.No.132 of 2013 on the file of IV Additional District Judge, Kakinada.

3. The petitioner herein is plaintiff in the above suit.

4. He filed the suit for specific performance of a Memorandum of Understanding dt.06.02.2013 directing respondent to join petitioner in execution of an instrument called, Development Agreement-cum-irrevocable General Power of Attorney in favour of petitioner for construction of apartment complex in the plaint schedule property.

5. It is not in dispute that on the same day, prior to the alleged Memorandum of Understanding dt.06.02.2013, there was also an agreement of sale dt.06.02.2013 executed by the parties.

6. When the Memorandum of Understanding dt.06.02.2013 was sought to be marked in evidence, there was an objection raised by defendant that it is inadequately stamped.

7. Thereafter, the impugned order was passed on 24.04.2018.

8. A perusal of the impugned order shows that by mistake the Trial Court presumed that respondent objected to marking of the Agreement of Sale dt.06.02.2013 when, in fact, the respondent had objected to marking of the Memorandum of Understanding dt.06.02.2013. This is clear from the fact that the Court noted in the second page of its order that the Counsel for defendant objected to marking of the suit document, i.e., Agreement of Sale dt.06.02.2013.

9. Since the Court below had by mistake presumed that the suit document was the Agreement of Sale dt.06.02.2013 when, in fact, the suit document was the Memorandum of Understanding dt.06.02.2013, the impugned order is set aside and the matter is remitted back to the Court below to consider whether the Memorandum of Understanding dt.06.02.2013 is adequately stamped or not.

10. This exercise shall be completed by the Court below uninfluenced by its earlier order and after hearing both sides.

11. Accordingly, the Civil Revision Petition is allowed as above.
No order as to costs.

12. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 16.11.2018

Ndr/*