

HON'BLE SRI JUSTICE D.V.S.S. SOMAYAJULU

CRP No.5620 of 2015

ORDER:

This Civil Revision Petition is filed questioning the order dated 05.10.2015 in IA No.896 of 2014 in OS No.474 of 2012 passed by the Additional Senior Civil Judge, Narasaraopet.

The application is filed under Section 151 CPC to decide the admissibility of the document dated 27.03.2005. The lower Court after hearing both the learned counsel came to a conclusion that the document, which is styled as a family settlement deed, requires stamp duty and registration also. Questioning the same, the present revision petition is filed.

Despite service of notice, the first respondent did not appear in the matter. Therefore, this Court has heard Sri Nimmagadda Revathi, learned counsel for the revision petitioner/first defendant.

The learned counsel for the revision petitioner argued that there is no division by metes and bounds and that unless and until there is a division by metes and bounds, the document does not require registration. She also submits that the income from the suit schedule property has also to be divided amongst the other parties

and that each no single person is given absolute right over any one item.

The learned counsel for the revision petitioner drew the attention of this Court to clause-7 of the family settlement deed and states that the parties have an option that they will get the deed of family settlement registered if the need arises. She also relied upon the following decisions:

- i) ***Bandikatla Padmavathi v. Bandikatla Veera Brahma Chari***¹;
- ii) ***M. Vidyasagar Reddy v. M. Padmaamma***²; and
- iii) ***Subraya M.N. v. Vittala M.N.***³

and argued that a deed of family settlement that does not divide the property by metes and bounds does not require registration.

This Court is of the opinion that the case law cited by the learned counsel for the revision petitioner does not admit of doubt. As per the law, if a document by itself does not create, declare, assign limit or extinguish any rights in immovable property of more than Rs.100/- the document does not require registration. The contents of document are to read as a whole to ascertain its true meaning import etc. No clause can be read separately or in isolation.

¹ 2013 (3) ALD 249

² 2016 (4) ALD 775 (DB)

³ 2016 (5) ALD 10 (SC)

In the case on hand, there are two items of immovable properties which are described as Property No.1 and Property No.2 in the schedule to this document, both are immovable properties. It is also admitted that all the four parties to the deed have succeeded to the property, as the legal heirs of the original owner, who died instate in the year 1978. Therefore, since 1978 till 2005 the property was being enjoyed and to set at rest any conflicting claims, to avoid conflicting claims, the present document is executed as per the terms of the document.

According to the terms and conditions of this document, the second party was given the absolute right and interest in the residential property described at Schedule-2 under clause-3. The second party is also given the right to reconstruct, modify or alter the residential superstructure at his own costs and expenses under clause-4. The third and fourth parties are given absolute legal right in the agricultural property described at schedule-1 under clause-5. The income over from the land shall be shared between one, three and four parties under clauses-1 and 4. In addition, in clause-6, it is clearly mentioned that the parties to whose share the scheduled properties have been settled by this deed shall have absolute legal right to get the properties mutated

and registered in their respective names and to transfer the electricity, water connection and other amenities. They are also permitted to pay the relevant property tax and revenue to the competent authorities from the date of this agreement under clause-6. In addition, clause-8 states that each party to this deed shall have absolute right upon their respective determined properties to sell, lease or mortgage or alienate the same without any objection on the other parties.

Therefore, a reading of the entire document makes it clear that the properties have been divided amongst parties 1 & 2 and 3 & 4. There is a clear allotment by this deed and what needs to be done after the allotment of shares is also clearly specified. In addition, the language used in this document is to the effect that the parties to whose share in the scheduled properties “have been settled by this deed” makes it clear that the division is by this deed alone.

Therefore, this Court is of the opinion that the document in question deals with the assignment, transfer and relinquishment of rights of immovable property worth more than Rs.100/- and therefore, it clearly requires registration under Section 17 of the Registration Act. In this view of the matter, this Court is

of the opinion that there is no error in the impugned order passed.

Accordingly, the Civil Revision Petition is dismissed. The order dated 05.10.2015 in IA No.896 of 2014 in OS No.474 of 2012 passed by the Additional Senior Civil Judge, Narasaraopet is confirmed. In the circumstances of the case, there shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this revision, shall stand closed.

Date: 29.11.2018
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D.V.S.S. SOMAYAJULU, J

