HON'BLE SRI JUSTICE S.V.BHATT

C.R.P. No.3498 OF 2012

ORDER:

Heard Mr. Kishroe holding for Mr.Siva Reddy and Mr.Chidambaram for parties.

The plaintiff in O.S. No.33 of 2007 is the revision petitioner. The suit is filed for specific performance of agreement of sale dated 02.10.2006. The suit agreement was tendered in evidence on 29.08.2011 at which point of time the respondents herein objected to the marking of document, on the ground that the suit agreement refers to alleged delivery of possession. If that be so, the suit agreement requires stamp duty. The suit agreement as now tendered in the Court, does not satisfy the requirement of stamp duty payable under Article 47(A) of Schedule-1 of the Stamp Act.

The trial Court after considering the objection, taking note of the recitals in the document and Article 47(A) of Schedule-1 of the Stamp Act held as follows:

> "Further as already pointed out by the learned counsel for the respondents, the petitioner has not paid the Stamp duty and penalty as assessed by the Court nor challenged the order of the Court. But without obeying the order of the Court, the petitioner filed this petition to send the agreement of sale to the District Registrar for collection of stamp duty and penalty. In my opinion, the petitioner cannot be allowed to take plea that agreement of sale has to be sent to the District Registrar for collection of stamp duty and penalty, having taken much time. If he really aggrieved by the orders of the Court in assessing the stamp duty and penalty, he can challenge the same. But without taking any recourse, he cannot seek for sending the document to the District Registrar

> for collection of stamp duty and penalty. Hence, I do not find any reason to allow this petition. Accordingly this petition is liable to be dismissed.

Hence the CRP.

Mr.Kishore contends that the agreement does not refer to delivery of possession.

On the other hand, the counsel appearing for respondents contends that it is not only the suit agreement that refers to alleged delivery of possession but also the plaint reiterates to the delivery of possession. Hence, according to him, no exception to the order impugned in the CRP either is pointed out or taken by this Court.

The submissions are referred to as required and much deliberation is not required to accept the view taken by the trial Court. After taking note of the averments in the plaint, I am of the view that the direction to pay stamp duty and penalty is tenable. Hence, the CRP fails and is dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date:06.09.2018
Note:
C.C. in one week.
B/o.
Stp