

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.3473 of 2018

ORDER:

This civil revision petition, under Article 227 of the Constitution of India, is filed by the unsuccessful petitioner/plaintiff assailing the docket order, dated 29.01.2018, of the learned Senior Civil Judge, Addanki, passed in O.S.No.110 of 2014, whereby the trial Court while considering the admissibility of the contract of sale, dated 25.06.2011, having noted that it is engrossed on non-judicial stamp paper of the value of Rs.100/- hold that even if the said contract of sale is to be admitted in evidence for collateral purpose, the requisite stamp duty and penalty are to be paid and that unless and until the same are paid, the document cannot be admitted in evidence. Aggrieved thereof, the plaintiff filed this revision petition.

2. I have heard the submissions of Sri *I.Koti Reddy*, learned counsel appearing for the revision petitioner/plaintiff (hereinafter referred to as, 'plaintiff'); and of Sri *Shafath Ahmed Khan*, learned counsel appearing for the respondent/defendant (hereinafter referred to as, 'defendant'). I have perused the material record.

3. Learned counsel for the petitioner submits that the suit is filed for recovery of money paid by the plaintiff under the suit contract of sale and that under that document, possession is not delivered and that instead of seeking specific performance, the plaintiff chose to seek recovery of the amount paid under the contract of sale and that, therefore, the document is not chargeable with any further duty as it is already engrossed on a stamp paper of a value of Rs.100/- and, hence, the issue involved in the revision petition is squarely covered by a decision of this Court in **P.Veerraju and another v. Lakkaraju Indira**

Bai and others¹ and that in that view of the matter, the order of the Court below is unsustainable under facts and in law.

4. On 26.06.2018, this Court ordered Notice before Admission and granted the following interim order in I.A.No.1 of 2018:

“Heard the learned Counsel for the petitioner and perused the material on record.

Having regard to the facts and legal position obtaining, this Court is satisfied that sufficient cause is made out for granting the interim order.

Accordingly, there shall be interim stay, as prayed for, till 11.07.2018.

Post on 11.07.2018.”

5. The respondent/defendant filed a vacate petition.

6. Learned counsel for the respondent submitted that since the suit is not one for specific performance of the contract of sale, the provision under Section 17(2)(v) of the Indian Registration Act, 1908, is attracted and, therefore, the stamp duty and penalty are payable.

7. However, in view of the settled legal position and the facts of the case, which are not in dispute, this Court does not find any merit in the said submission.

8. In the result, the Civil Revision Petition is allowed and the order of the Court below holding that the contract of sale cannot be admitted in evidence unless stamp duty and penalty are paid is, accordingly, set aside. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

M.SEETHARAMA MURTI, J

Date: 31st August, 2018
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¹ 2015 (1) ALD 472

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