

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Civil Revision Petition No.4446 of 2018

Date: 03.08.2018

Between:

Sri Raja Sagi Venkatapathi Raju

.. Petitioner

and

Rajasagi Varahamma (died) and 15 others

.. Respondents

Counsel for the Petitioner : Mr.G.Rama Gopal

The Court made the following:



Order :

This is a vexatious piece of litigation instituted by the petitioner evidently to avoid payment of proper stamp duty. The petitioner succeeded in OS.No.213 of 1984 filed for specific performance of an agreement of sale with the passing of Decree on 14-03-1992 by the lower Court. AS.No.641 of 1992 filed by the respondents against the said Judgment and Decree was dismissed by this Court on 22-01-2008. The Special Leave Petition filed by the respondents against the said Judgment was dismissed by the Supreme Court on 15-05-2008. Four years thereafter, the petitioner has filed EP.No.104 of 2012. When the document presented by the petitioner was returned by the Sub-Registrar concerned for not paying proper stamp duty, the former has filed EA.No.642 of 2017 by taking a specious plea that he is liable to pay stamp duty on the value mentioned in the agreement of sale before the lower Court. The petitioner, however, raised an alternative plea that even if he is liable to pay the stamp duty on the market value, the market value, prevailing as on the date on which the Decree was passed, has to be taken into account. This plea was rightly rejected by the lower Court.

Under Article 47-A of Schedule I-A of the Indian Stamp Act, 1899 (for short 'the Act'), stamp duty is payable on the value of the

consideration shown in the document or the market value, whichever is higher. Therefore, the main plea of the petitioner that he was liable to pay stamp duty on the value shown in the agreement of sale was preposterous.

As regards the alternative submission, Mr.G.Rama Gopal, learned Counsel for the petitioner, submitted that as the respondents have protracted the matter by filing AS.No.641 of 1992 wherein this Court has granted stay, the petitioner cannot be made to suffer on account of the act of the respondents and that of the Court. He further submitted that the provisions of Article 47-A of Schedule I-A of the Act have to be interpreted keeping in view the facts of each case.

I am afraid I cannot accept the submission of the learned Counsel for the petitioner. Once the statute confers a right on a party to pursue an appellate remedy and the Appellate Court is empowered to grant an interim order pending such Appeal, the petitioner cannot take umbrage at the conduct of the respondents in filing the Appeal and the act of this Court in granting stay. The maxim *actus curiae neminem gravabit*, which means the act of Court shall prejudice no man, cannot be applied to the case of the present nature. When the petitioner entered into an agreement of sale, he ran the risk of facing litigation as well. It, therefore, does not lie in

his mouth to say that the time consumed in disposal of the Appeal by this Court has to be excluded for the purpose of computation of market value.

In this view of the matter, I do not find any merit in this Civil Revision Petition and the same is, accordingly, dismissed.

As a sequel to dismissal of the Civil Revision Petition, IA.No.1 of 2018, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 3rd August, 2018
lur

