**HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**CIVIL REVISION PETITION No.668 OF 2016**

**ORDER**:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioners - defendants, challenging the order, dated 07.10.2016, in I.A. No.430 of 2014 in O.S. No.519 of 2011, passed by the learned III Additional Junior Civil Judge, Nellore.

2. The petitioners tendered certain documents to be admitted in evidence. But, the respondent - plaintiff raised an objection that it is a possessory agreement of sale, dated 19.05.1983 for a value of Rs.2,000/- which was written on a stamped paper worth of Rs.3/-; and the other documents are, agreement of sale, dated 24.05.20016, for a value of Rs.62,800/- written on a stamped paper worth of Rs.100/-; agreement of sale, dated 10.11.1992, for a value of Rs.10,000/- written on a stamped paper worth of Rs.30/-, agreement of sale, dated 21.02.2004, for a value of Rs.50,000/- written on a stamped paper worth of Rs.50/-, agreement of sale, dated 29.11.2004, for a value of Rs.30,000/- written on a stamped paper worth of Rs.100/-, agreement of sale, dated 12.12.2005, for a value of Rs.2,00,000/- written on a stamped paper worth of Rs.200/-, and agreement of sale, dated 01.06.2010, and all the said documents are unregistered agreements of sale and they are insufficiently stamped documents, therefore, they cannot be admitted in evidence on the ground that they are

insufficiently stamped documents and requested to reject the documents.

3. But, the trial Court upon hearing argument of both counsel, passed the impugned order, directing the petitioners - defendants to pay deficit stamp duty and penalty in terms of the Indian Stamp Act, since the agreements of sale are possessory agreements of sales and it is hit by explanation to Article 47-A of Schedule 1-A of the Indian Stamp Act (Andhra Pradesh Amendment) Act, 1922 (for short 'Act, 1922').

4. Aggrieved by the order, the present revision is filed on various grounds, mainly contending that in a suit for injunction, insufficiently stamped documents can be admitted and the order passed by the trial Court is erroneous on the face of record and the trial Court failed to consider the purport of explanation to Article 47-A of Schedule 1-A of the Act, 1922 and prayed to set aside the order exercising power under Article 227 of the Constitution of India.

5. The first document sought to be admitted in evidence is, possessory agreement of sale, dated 19.05.1983 for the value of Rs.2,000/- which was written on a stamped paper worth of Rs.3/-. A possessory agreement or evidencing delivery of possession in view of Article 47-A of Schedule 1-A of the Act, 1922, total stamp duty less Rs.10/- is to be paid, but the amendment came into force w.e.f. 16.08.1986. Therefore, the explanation under Article 47-A of

Schedule 1-A of the Act, 1922 cannot be applied to the document, dated 19.05.1983 as it was executed prior to the amendment. But, still, he has to pay deficit stamp duty as per the provisions of Stamp Act prior to amendment.

6. The other documents are dated 24.05.2006 for value of Rs.62,800/-; dated 10.11.1992 for value of Rs.10,000/-; dated 21.02.2004 for value of Rs.50,000/-; dated 29.11.2004 for value of Rs.30,000/-; dated 12.12.2005 for value of Rs.2,00,000/-; and dated 01.06.2010, and they are all possessory agreements of sale or documents evidencing delivery of possession under the agreements of sale. Therefore, Article 47-A of Schedule 1-A of the Act, 1922 and explanation thereto is directly applicable to the documents. But, in view of the bar, unless stamp duty and penalty is paid or impounded by the competent authority as per Section 33 of the Act, 1922, the documents cannot be admitted in evidence. Therefore, the finding of the trial Court with regard to the documents executed prior to amendment of Schedule IA of Act, 1922 is in accordance with law. But, the contention of the petitioners before this Court is that they can avail remedy under Section 38 (2) of the Act, 1922 by filing an application to refer the documents to the concerned authorities under the Act for impounding those documents and pay proper stamp duty and penalty as directed by the authorities, instead of issuing such direction, the trial Court is insisting the petitioners to pay stamp duty and penalty in terms of Article 47-A of Schedule 1-A of the Act, 1922.

7. No doubt, if the petitioners file any application under Order XIII, Rule 8 of the Code of Civil Procedure, 1908 (for short 'Code') or under Section 38 (2) of the Act, 1922, the trial Court is directed to refer the documents to the competent authority under the Stamp Act to impound the documents. But, till date, the petitioners did not file any such application under Order XIII, Rule 8 of the Code or under Section 38 (2) of the Act, 1922. Therefore, the trial Court is directed not to admit the documents till the stamp duty and penalty is paid or impounding on an application filed under Order XIII, Rule 8 of the Code or under Section 38 (2) of the Act, 1922.

8. With the above direction, this Civil Revision Petition is disposed of, giving liberty to the petitioners to file appropriate application to impound the documents. No order as to costs.

Consequently, Miscellaneous Petitions, if any, pending in the present revision, stand closed.

**M. SATYANARAYANA MURTHY, J**

**November 8, 2018.**
Mgr