

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

Civil Revision Petition Nos.5282 & 5310 of 2018

Date: 14.09.2018

CRP.No.5282/18

Between:

Gogineni Sudhakara Rao and 3 others

.. Petitioners

and

Abdul Ansar Ali and another

.. Respondents

Counsel for the Petitioners : Mr.Subba Reddy.S.

The Court made the following:



Common Order:

CRP.Nos.5282 and 5310 of 2018 are filed against two separate Orders, dated 12-07-2018, in IA.Nos.438 and 437 of 2018 respectively in OS.No.351 of 2014 on the file of the Principal Senior Civil Judge at Gajuwaka.

Following the detailed reasons contained in Order, dated 12.07.2018, the Court below has allowed IA.No.438 of 2018 and permitted the respondents to mark the original unregistered sale agreement, dated 12-10-2012, as Ex.B.6. As a consequence of the said Order, it has allowed IA.No.437 of 2018 and permitted the respondents to reopen the case for marking the said document.

The controversy in the present case lies in a narrow compass. The petitioners filed the aforementioned suit seeking eviction of respondent Nos.1 and 2 from the suit schedule property. While the petitioners have pleaded that respondent No.1- defendant No.1 has executed registered General Power of Attorney –cum- agreement of sale, dated 12-12-2012, in favour of petitioner No.1, who, in turn, executed a registered sale deed in favour of himself and petitioner Nos.2 to 4 on 27-03-2013, respondent No.2- defendant No.2 has set up an agreement of sale, dated 12-10-2012, allegedly executed by respondent No.1 in his favour. After the evidence on both sides was

closed, respondent No.2 has filed the aforementioned IAs for the purpose of reopening the trial for marking the unregistered agreement of sale. Respondent No.2 has specifically pleaded in his affidavits, filed in support of both those Applications, that since the agreement of sale set up by him was unregistered, he is entitled to get the same marked for collateral purpose *viz.*, to show his possession. The Court below, after discussing the case law and the facts of the case, allowed both the Applications.

Mr.S.Subba Reddy, learned Counsel for the petitioners, vehemently submitted that the lower Court has committed an error in allowing the said Applications on the ground that the issue was already framed as to whether respondent No.1 has executed agreement of sale in favour of respondent No.2 without noticing the fact that the petitioners have already filed an application for deleting the said issue. He has further submitted that the agreement of sale set up by respondent No.2 does not contain any recital of delivery of possession and that therefore, such a document ought not have been permitted to be marked for the alleged collateral purpose. The learned Counsel further submitted that though the stamp duty of Rs.100/- is sufficient for an agreement of sale, the alleged agreement was prepared by affixture of adhesive stamps, which was held not

sufficient compliance of the statutory requirement by this Court in

Tadi Jaganmohana Reddy vs. Karri Satyanarayana Reddy¹.

I have carefully considered the submissions of the learned Counsel for the petitioner.

In the light of the settled legal position as discussed by the Court below, even if a document, which requires registration, is not registered, it could be marked into evidence for collateral purpose. Undoubtedly, in respect of an agreement of sale, possession is a collateral purpose. Therefore, I do not find any error in the lower Court holding that the proposed Ex.B.6 can be admitted into evidence for showing the possession of respondent No.2.

As regards the submission of the learned Counsel for the petitioners that an IA was filed by the petitioners for deleting the issue as to whether respondent No.1 has executed an agreement of sale in favour of respondent No.2, the outcome of the said IA hardly makes any difference because even according to respondent No.2, the limited purpose, for which he sought admission of Ex.B.6-agreement of sale, was only to prove his possession. Whether mere proof of possession by respondent No.2 would have any impact on the outcome of the suit proceedings or not is an aspect which requires to be adjudicated in the suit. Hence, pendency of the said

¹ (2010) 6 ALD 444

IA has no bearing on the admission of the document into evidence for collateral purpose.

Coming to the next submission of the learned Counsel that the agreement of sale set up by respondent No.2 does not contain any recital relating to possession, this aspect has no relevance at this stage as the same needs to be decided in the suit.

With regard to the further submission of the learned Counsel that the proposed Ex.B.6 was prepared by affixture of adhesive stamp of Rs.100/-, admittedly, this issue was not raised by the petitioners before the lower Court. As this aspect falls in the realm of a question of fact, the same cannot be permitted to be raised, for the first time, before this Court without the petitioners having not raised this before the lower Court.

For the afore-mentioned reasons, I do not find any merit in these CRPs and the same are, accordingly, dismissed.

As a sequel to dismissal of the CRPs, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 14th September, 2018
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