

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No. 6312 OF 2016

ORDER:

This civil revision petition is filed by second defendant, under Article 227 of the Constitution of India, assailing order dated 23.11.2016 passed in O.S. No.327 of 2011 on the file of the Court of VII Additional District and Sessions Judge at Vijayawada.

2. Heard the learned counsel for both the parties.

3. Now, the point for consideration is

"Whether there is any illegality, irregularity or impropriety in the impugned order"?

4. A perusal of the record reveals that first respondent filed O.S. No.327 of 2011 against the petitioner and respondent Nos.2 to 4 for specific performance of agreement of sale dated 16.02.2011. The petitioner and respondent Nos.2 to 4 filed written statement opposing the claim of the first respondent. During the course of trial, the first respondent intended to mark the document dated 16.02.2011. At that stage, the petitioner filed a memo raising an objection that the document in question cannot be marked. The respondent Nos.2 to 4 also raised the same objection. The trial Court after hearing both parties passed the following order:

"Accordingly the objection of the defendants is overruled. The document does not require stamp duty. The document can be received in evidence."

5. It is needless to say that when the petitioner raised an objection with regard to marking of the document dated 16.02.2011, the trial Court ought to have passed a speaking order giving reasons for permitting the first respondent to mark the said

document. In the present case, the trial Court has not given reasons for permitting the first respondent to mark the document in question. The trial Court simply overruled the objection raised by the petitioner, without assigning reasons much less cogent and valid reasons, to its finding. If the order of the trial Court is allowed to stand, it would certainly amount to miscarriage of justice.

6. Taking into consideration the facts and circumstances of the case, this Court is of the considered view that it is a fit case to allow the revision.

7. The civil revision petition is accordingly allowed, setting aside the order dated 23.11.2016 passed in O.S.No.327 of 2017. The trial Court is hereby directed to consider the objections raised by the petitioner and pass appropriate orders in accordance with law. Miscellaneous petitions, if any, pending in this civil revision petition shall stand closed. No costs.

T.SUNIL CHOWDARY, J.

Date: 11.12.2018
JSK