

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.22089 of 2013

ORDER:

The petitioner seeks a Writ of Mandamus declaring the action of the 2nd respondent—District Registrar, Sangareddy, Medak District in impounding the agreement of sale dated 25.11.2006 executed by the petitioner in favour of respondents 3 to 5 under the provisions of Indian Stamp Act and collecting stamp duty and penalty from them and the procedure adopted while impounding the above document as illegal, arbitrary and against the provisions of the Indian Stamp Act and its Rules and consequently set aside the impoundment and collection of stamp duty and penalty by the 2nd respondent.

2) Respondents 3 to 5 filed O.S.No.25/2008 against the petitioner on the file of District Court, Medak District at Sangareddy, seeking specific performance of suit agreement of sale dated 25.11.2006 executed by the defendant in their favour. The suit appears to have been made over to the Court of III Additional District and Sessions Judge (Fast Track Court), Medak. During enquiry, the learned III Additional District and Sessions Judge, Medak, sent the agreement of sale dated 25.11.2006 to 2nd respondent for impounding the same and for collection of the stamp duty and penalty and accordingly, the 2nd respondent impounded the document and collected the stamp duty and penalty. The said act of the 2nd respondent is now challenged in this writ petition on the ground that in the schedule of the agreement of sale dated 25.11.2006, the particulars

of survey number and extent and common boundaries alone are mentioned in respect of the subject property and the location of the property i.e, name of the village and Mandal are not specifically mentioned therein and therefore, the 2nd respondent cannot assume jurisdiction to impound the document and collect stamp duty and penalty.

3) Respondent No.2 filed counter and opposed the writ petition stating that as per the order of the III Additional District and Sessions Court (FTC), Medak and in view of the powers conferred under Sections 33, 38, 40 and 41 of Indian Stamp Act, the 2nd respondent impounded the document and collected the deficit stamp duty of Rs.19,880/- and penalty of Rs.59,640/- and appended the certificate on the instrument. It is further stated that before collecting the stamp duty, he examined the document and recorded the deposition of the claimant who was liable to pay the stamp duty. It is thus submitted that the action of the District Registrar is within the purview of Indian Stamp Act and hence the writ petition is not maintainable.

4) When the matter is called, there is no representation for the writ petitioner. It is seen that in the schedule of agreement of sale dated 25.11.2006, the particulars of property are mentioned with reference to extent and survey numbers and boundaries but the location of the property i.e, name of the Village and Mandal are not mentioned. However in the plaint schedule, the location of the said property is mentioned as Narsingi Village, Chegunta Mandal, Medak District.

Further, in the statements recorded by the 2nd respondent also, respondents 4 and 5 stated that the property is situated at Narsingi Village, Chegunta Mandal. As rightly submitted by learned Asst. Government Pleader, the District Registrar after recording the statements of respondents 4 and 5 and after ascertaining from them about the location of the property which falls within his jurisdiction, followed the directions of the learned III Additional District Judge (FTC), Medak and impounded the document and collected the requisite stamp duty and penalty as per the provisions of Indian Stamp Act and therefore, the act of 2nd respondent is only a consequential one to the direction of the Court of III Additional District and Sessions Judge (FTC), Medak and hence he cannot be harped. If the petitioner still proposes to question the territorial jurisdiction of the Court to entertain the suit, he may do so by filing the written statement in the suit, in which case, the concerned Court will answer the said issue.

5) With the above observations, this Writ Petition is dismissed. No costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 20.11.2018
scs