

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

C.R.P.NO.6159 OF 2017

ORDER

The respondent herein filed suit in O.S.No.334 of 2011 on the file of Senior Civil Judge at Narsapur, West Godavari District for specific performance of agreement of sale dated 20-07-2011. During trial, when the said agreement of sale was sought to be marked, the defendants raised objection for want of stamp duty and registration. By the impugned docket order dated 22.09.2017, the trial court held that the document is liable for deficit stamp duty and penalty for admitting into evidence and that it does not require registration. Aggrieved by the same, the defendants in the suit filed the present revision.

The learned counsel for the petitioners would submit that the possessory agreement of sale is compulsory registerable under Section 17(1)(g) of the Registration Act, 1908 (for short 'the Act'). As the said document, which is sought to be marked, is not registered, cannot be admitted in evidence.

The present suit is filed for specific performance of agreement of sale. Section 49 of the reads as under:

49. Effect of non-registration of documents required to be registered:--

No document required by Section 17 or by any provisions of the Transfer of Property Act, 1882 to be registered shall,--

- (a) affect any immovable property comprised therein, or
- (b) confer any power to adopt; or
- (c) be received as evidence of any transaction affecting such property or conferring such power, unless it has been registered;

Provided that an unregistered document affecting immovable property and required by this Act, or the Transfer of Property Act, 1882 to be registered may be received as evidence of a contract in a suit for specific performance under Chapter II of the Specific Relief Act, 1877, or as evidence of part performance of a contract for the purposes of Section 53-A of the Transfer of Property Act, 1882, or as evidence of any collateral transaction not required to be effected by registered instrument.

As per the above provision, an unregistered document affecting immovable property and required by Registration Act or the Transfer of Property to be registered, may be received as evidence of a contract, in a suit for specific performance.

As noted above, the present suit is for specific performance. In view of the above provision, the trial court, in my considered view, rightly held that the document in question does not require registration for admitting it in evidence.

I find no infirmity or perversity in the impugned order and the revision is devoid of any merit and the same is accordingly dismissed.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

A.RAJASHEKER REDDY,J

DATE:12—02—2018

AVS