

THE HON'BLE SRI JUSTICE SANJAY KUMAR

**CIVIL REVISION PETITION Nos.7464, 7465, 7469, 7471,
7478, 7481, 7484, 7488, 7503, 7505, 7507, 7510, 7513,
7531, 7535, 7537, 7554, 7556, 7557, 7561, 7562, 7567,
7568, 7571, 7573, 7574, 7576, 7580, 7585,
7592 OF 2017, 8, 56, 127 AND 178 OF 2018**

C O M M O N O R D E R

This batch of 34 civil revision petitions filed by the same petitioners, defendants 7 and 9 to 11 in the subject seventeen suits, arise out of the separate orders dated 16.11.2017 passed by the learned II Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar, in two sets of I.As. filed by the plaintiffs in the said suits. Though the plaintiffs differ, the suits were all filed seeking declarations that the individual plaintiffs therein were the true and lawful owners of various plots of differing extents situated in Sy.Nos.108 and 109 of Kothapet Village, Uppal Mandal, L.B.Nagar Municipality, Ranga Reddy District, and for permanent injunctions restraining the defendants from interfering with their possession and enjoyment of the suit plots. The suit prayers in O.S.Nos.465, 477, 475, 469 and 473 of 2009 however read differently as the individual plaintiffs therein sought declarations that the decree dated 23.11.1998 in O.S.No.191 of 1994 on the file of the learned II Additional Senior Civil Judge, Ranga Reddy District at Saroornagar, was null, void and unenforceable in so far as it related to the suit plots and for permanent injunctions restraining the defendants therein from interfering with their possession and enjoyment of the suit plots. In addition to the aforesaid declaration and permanent injunction, the plaintiff in O.S.No.1101 of 2015 also sought declaration of his own title over the suit plot therein.

The individual plaintiffs in all the aforesaid suits filed two I.As. in each of the suits - one, under Order 16 Rule 1 CPC to summon Muzammil Hussain, Stamp Vendor, as a witness to state the facts with regard to the disputed stamp papers bearing Sl.Nos.8656 and 8657 dated 01.07.1991 issued by the office of the District Registrar, Ranga Reddy District, and the other, under Order 16 Rule 6 CPC to summon the record, i.e., the Sales Register of non-judicial stamp papers sold by Muzammil Hussain, Stamp Vendor, for the year ending 1991, from the office of the District Registrar, Ranga Reddy District. By the separate orders dated 16.11.2017, the trial Court allowed all the I.As. Aggrieved thereby, defendants 7 and 9 to 11, common to each of the suits, filed these revisions under Article 227 of the Constitution.

Heard Sri D.Jagan Mohan Reddy, learned counsel for the petitioners/defendants 7 and 9 to 11, and Sri D.Madhava Rao, learned counsel for respondent 1 in each of the CRPs, the individual plaintiff in each of the suits.

The claim of the plaintiffs in the seventeen suits was that they had purchased the suit plots from G.Jangaiah, Kareemunnisa Begum and others, who were the original owners of the land in Sy.Nos.108 and 109 of Kothapet Village, Ranga Reddy District. While so, the defendants laid claim over the land tracing their title to the agreement of sale dated 01.07.1991, whereby G.Jangaiah agreed to sell Ac.9.09 guntas in Sy.Nos.108 and 109 of Kothapet Village, Ranga Reddy District, to one E.Narasimha Goud. This agreement of sale was executed on the disputed stamp papers bearing Sl.Nos.8656 and 8657 of the value of Rs.50/- each. Both were dated 01.07.1991 and were sold by Muzammil Hussain,

Stamp Vendor. It is not in dispute that the judgment and decree of specific performance dated 23.11.1998 secured by E.Narasimha Goud on the strength of this agreement of sale in O.S.No.191 of 1994 on the file of the learned II Additional Senior Civil Judge, Ranga Reddy District at Saroornagar, was tested right up to the Supreme Court. By that time, E.Narasimha Goud expired and his legal representatives were brought on record.

The plaintiffs in the present suits however claim that a forged and fabricated agreement of sale had been created on fake stamp papers as the stamp papers bearing Sl.Nos.8656 and 8657 dated 01.07.1991 were not found in the Sales Register of the District Registrar's Office, Ranga Reddy District. It was on this ground that they filed the subject I.As. under Order 16 Rule 1 CPC and Order 16 Rule 6 CPC, to summon and examine Muzammil Hussain, Stamp Vendor, and to summon the Sales Register of non-judicial stamp papers sold by Muzammil Hussain, Stamp Vendor, for the year ending 1991.

It was brought to the notice of the trial Court that the learned Judicial Magistrate of First Class, Special Mobile Court-cum-XI Metropolitan Magistrate, Cyberabad, L.B.Nagar, had rendered judgment dated 20.11.2014 in Calendar Case No.331 of 2007 in relation to the very same stamp papers, holding to the effect that they were not genuine and were fake. G.Jangaiah, the first accused therein, died during the pendency of the case and therefore, though he was found guilty of an offence under Section 465 IPC, no sentence was passed against him. All the other accused therein, including the first petitioner in all these cases, defendant 7 in the suits, were acquitted of all charges.

The trial Court rightly opined that the evidence adduced in the criminal case could not be used for adjudicating a civil dispute. The trial Court further noted that the plaintiffs' rights would be prejudiced if this aspect of the matter was not examined and as this issue was not raised before the Supreme Court in the proceedings arising out of the judgment and decree dated 23.11.1998 in the specific performance suit in O.S.No.191 of 1994, the trial Court opined that the same could be looked into. Observing that examination of the proposed witness and the record to be summoned would not prejudice the defendants and it would be necessary for the plaintiffs to disprove the defendants' case, the trial Court allowed the subject I.As.

Sri D.Jagan Mohan Reddy, learned counsel, would state that as the finding of the criminal Court as to the stamp papers in question being fake has already attained finality, his clients are willing to abide and be bound by the same and that they do not dispute the factum of the said stamp papers being fake. He would argue that once his clients conceded that the finding of the criminal Court that the subject stamp papers were fake is binding on them, there was no necessity to summon either the stamp vendor or the record to prove the same. The learned counsel would however submit that this fact, by itself, would not enure to the benefit of the individual plaintiffs in the suits to the extent of holding that the agreement of sale was also false and fabricated. He would rely upon **THIRUVENGADAM PILLAI V/s. NAVANEETHAMMAL**¹, wherein the Supreme Court considered a document which was executed on stamp papers which were not

¹ (2008) 4 SCC 530

consecutively numbered but were purchased by the same person on different dates. Observing that the Indian Stamp Act, 1899 (*for brevity*, 'the Act of 1899') is a fiscal enactment intended to secure revenue for the State and in the absence of any rule requiring consecutively numbered stamp papers purchased on the same day being used for an instrument, the use of stamp papers as in that case could, at best, be an irregularity, whereby it could be concluded that the document was not properly stamped, but on that ground the document could not be held to be invalid. It was further observed that even if an agreement is not executed on requisite stamp paper, it is admissible in evidence on payment of duty and penalty under Sections 35 or 37 of the Act of 1899, as even an agreement executed on plain paper could also be admitted in evidence by paying duty and penalty and there was no reason why an agreement executed on two stamp papers, even assuming that they were defective, could not be accepted on payment of duty and penalty. The Supreme Court concluded by cautioning that admissibility of a document in evidence and proof or genuineness of such document were two different issues.

At this stage, it may be reiterated that the trial Court was absolutely correct in recording that the finding of a criminal Court would not be binding upon the civil Court while considering the same issue. This principle was affirmed in **VISHNU DUTT SHARMA V/s. DAYA SAPRA (SMT).**² and **KISHAN SINGH (DEAD) THROUGH LRS. V/s. GURPAL SINGH**³, wherein the Supreme Court observed that the findings recorded by the civil Court would not be binding or have bearing in a criminal case and

² (2009) 13 SCC 729

³ (2010) 8 SCC 775

vice versa as the standard of proof is different in civil and criminal proceedings.

That being said, the trial Court seems to have completely overlooked and ignored the concession made by defendants 7 and 9 to 11 in all the suits, the petitioners in these revisions, that they accepted the finding of the criminal Court in Calendar Case No. 331 of 2007 that the stamp papers in question were fake. It is relevant to note that only the present petitioners, being defendants 7 and 9 to 11 in the suits, contested the subject I.As. and none of the other defendants chose to do so. It may also be noted that defendants 2 to 5 are none other than the legal representatives of G.Jangaiah, the deceased defendant 1, who have no active role to play in the litigation as they no longer have an interest in the suit plots, while defendant 6 being the mother of defendant 7, the first petitioner herein, already expired. The other non-contesting defendants would also be bound by the concession made by their contesting co-defendants, the petitioners herein.

Therefore, though the finding recorded by the criminal Court in C.C.No.331 of 2007, *vide* judgment dated 20.11.2014, that the stamp papers in question were fake, would not be ordinarily binding in civil proceedings, as rightly pointed out by the trial Court, the concession made by the contesting defendants 7 and 9 to 11, the petitioners herein, to the effect that they would be bound by the said finding ought to have been taken note of by the trial Court. In the light of their concession, it was wholly unnecessary for the trial Court to invite and take upon itself the additional exercise of summoning Muzammil Hussain, the Stamp Vendor, and the record concerned, to again prove this conceded fact.

Before parting with the cases on hand, it may be noted that as these revisions pertain only to the orders passed under Order 16 Rule 1 CPC and Order 16 Rule 6 CPC, it would be wholly premature for this Court to go into the issue of proof or genuineness of the subject agreement of sale. It is for the trial Court to consider this issue at the appropriate stage. The trial Court would however be well advised to keep the aforesaid observations of the Supreme Court in **THIRUVENGADAM PILLAI**¹ in mind while considering the said issue in the context of the accepted finding of the criminal Court that the stamp papers on which the agreement of sale was executed were fake.

The Civil Revision Petitions are accordingly allowed setting aside the orders under revision. The trial Court shall proceed on the strength of the concession made by defendants 7 and 9 to 11 in the suits to the effect that the stamp papers in question, bearing Sl.Nos.8656 and 8657 dated 01.07.1991, were fake. However, the import and consequence of this fact would necessarily have to be looked into by the trial Court in accordance with law at the appropriate stage.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

2nd FEBRUARY, 2018
PGS