

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.423 of 2019

ORDER:

This Revision is filed challenging the order dt.04.02.2019 in O.S.No.95 of 2010 of the XXIV Additional Chief Judge, City Civil Court, Hyderabad overruling an objection raised by the petitioners for marking of an unregistered Rent Agreement dt.28.08.1969 produced by respondents 1 to 5.

2. No doubt, respondents 1 to 5/plaintiffs had filed an application I.A.No.1975 of 2017 under Order VII Rule 14(3) CPC in the Court below for receiving the said document.

3. Counter affidavit was filed to the said application objecting to the delay in producing the said document and also raising an objection about it being insufficiently stamped. It was further contended that the petitioners did not give any proper explanation for the delay except saying that it was mixed-up with the old records; that the document is insufficiently stamped and unregistered, and so it cannot be received in evidence.

4. By order dt.18.01.2018, the Court below accepted the reasons for not filing the document and received the document i.e., Agreement of Rent.

5. Thereafter, a Memo was filed by the petitioners raising serious objections to the said document on 30.07.2018 on the

ground that it is insufficiently stamped and it is unregistered and could not have been admitted in evidence.

6. By order dt.04.02.2019 the Court below opined that since the Agreement in question did not mention about specific time period for the duration of the tenancy/rent, Section 107 of the Transfer of Property Act, 1882 is not applicable, and the document in question did not require any registration but stamp duty needs to be paid.

7. Challenging the same, this Revision is filed.

8. The view of the Court below is unsustainable because as per the amendment in State of Andhra Pradesh applicable in the State of Telangana too to the Registration Act, 1908 a document creating a lease irrespective of its duration requires registration under Section 17(d) of the Registration Act, 1908. Since the agreement in question did not mention duration of the lease, it certainly requires registration because it is for an indefinite period. That apart, the Court below has not applied its mind to the adequacy of the stamp duty on the document in question in order to decide whether document is properly stamped or not .

9. Therefore, this Civil Revision Petition is allowed; the impugned order dt.04.02.2019 in O.S.No.95 of 2010 of the XXIV Additional Chief Judge, City Civil Court, Hyderabad is set aside; and the Court below is directed to consider afresh the objection of the petitioners to the admissibility of the unregistered Rent

Agreement dt.28.08.1969 with reference to the provisions of the Indian Stamp Act, 1899 and Registration Act, 1908, after hearing both sides, within a period of four (04) weeks from the date of receipt of a copy of this order. No order as to costs.

10. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

18th June, 2019.

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