

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.739 of 2019

ORDER :

This Civil Revision Petition is filed challenging the order dt.01-10-2018 in I.A.No.1341 of 2015 in I.A.No.431 of 2015 in O.S.No.77 of 2012 of the Special Judge for SC/ST (POA) Act-cum-V Additional District & Sessions Judge, Medak at Sangareddy.

2. Petitioner is plaintiff in the suit.
3. He filed the said suit for specific performance of an agreement of sale dt.09-05-2007 executed allegedly by 2nd respondent herein in his favour.
4. Written statement was filed by respondents/defendants.
5. The 1st respondent stated that he was the owner of the suit schedule property, which he gifted to the 2nd respondent, who is wife, on 27-01-2007 and he denied executing the agreement of sale dt.09-05-2007 by 2nd respondent in favour of petitioner. Other pleas were also raised.
6. It appears that petitioner filed I.A.No.546 of 2012 under Order 39 Rules 1 and 2 C.P.C. for temporary injunction and in the said I.A., respondents filed I.A.No.909 of 2012 stating that the agreement of sale dt.09-05-2007 is improperly stamped, that Article 47-A of Schedule-IA to the Stamp Act, 1899 is attracted and the said

agreement is liable to be impounded in view of Section 33 of the said Act.

7. Though petitioner contested the same, the trial Court allowed it on 14-12-2012.

8. Petitioner questioned it in C.R.P.No.867 of 2013 before this Court and by order dt.21-09-2013, this Court confirmed the order passed by the trial Court. The said order attained finality.

9. Thereafter petitioner filed I.A.No.1189 of 2013 seeking amendment of the plaint taking the plea that he was dispossessed by respondents on 30-09-2013 and to include a paragraph in the plaint referring to the said alleged event and also raising certain other contentions.

10. The said application is pending on the file of the V Additional District Judge, Medak at Sanga Reddy.

11. While that application was pending, respondents filed I.A.No.431 of 2015 to reject the plaint on the ground that there was no cause of action against respondent.

12. The said application was dismissed on 11-09-2015. While dismissing the said application, an observation was made directing the petitioner to complete the process of impounding the agreement of sale dt.09-05-2007 within one month from the date of said order.

13. Petitioner filed I.A.No.1341 of 2015 to review the said order and the said Review petition was dismissed on 01-10-2018. The Court below held that if at all the petitioner was aggrieved by the said direction in the order dt.11-05-2015 in I.A.No.431 of 2015, petitioner should have preferred an appeal or Revision against it, but he could not have filed Review petition. His further contention that his application for amendment of plaint is pending and the Court below should have decided the said application first instead of deciding I.A.No.431 of 2015, was also not accepted by the Court below while dismissing the Review petition. It held that the said amendment petition would be considered at the appropriate stage and the pendency of said petition cannot be a ground to allow the Review petition.

14. Assailing the same, this Revision is filed.

15. Though learned counsel for petitioner sought to contend that the Court below erred in dismissing the Review petition and it should have allowed it by deleting the direction contained in the order dt.11-09-2015 in I.A.No.431 of 2015 directing the petitioner to complete the process of impounding the agreement of sale dt.09-05-2007, I am unable to agree with the said contention in view of the order dt.21-09-2013 in C.R.P.No.867 of 2013, wherein this Court had upheld the direction of the Court below to impound the said agreement of sale, and so the said order is binding on the Court below as well as the petitioner since the entire basis of the suit of the

petitioner is the said agreement of sale dt.09-05-2007. Petitioner has no choice but to complete the process relating to impounding of the agreement of sale dt.09-05-2007 and cannot seek to avoid the same on the pretext that his application for amendment of plaint is pending.

16. I therefore do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India.

17. Accordingly the Civil Revision Petition fails and it is dismissed at the stage of admission. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 06-06-2019

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