

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.Nos.1399 & 1053 OF 2019

COMMON ORDER:

These two Revisions arise between the same parties out the same suit and so, they are being disposed of by this common order.

2. The petitioner in both the Revisions is plaintiff in O.S.No.124 of 2013. He filed the said suit for recovery of money which was paid by him to the respondent on 22.12.2009 under an agreement of sale dated 22.12.2009 and also sought interest at 24% p.a.

3. Pending the suit, he filed I.A.No.417 of 2018 before the Senior Civil Judge, Sathupally, to send the said agreement of sale for the purpose of impounding to the District Registrar, Khammam for collection of stamp duty and penalty, contending that it is inadequately stamped and, therefore, it has to be impounded and he is ready to pay necessary stamp duty and penalty on the document if it is sent to the District Collector, Khammam. The respondent took a plea that the document is an unregistered document and is inadmissible in evidence and, therefore, it cannot be sent for the purpose of impounding.

4. By order dated 15.11.2018, the Court below dismissed the IA holding that the document is unregistered and did not deal with the contention of the petitioner that the document is insufficiently stamped and that it requires impounding.

5. Challenging the said order, the petitioner filed C.R.P.No.1399 of 2019.

6. Subsequently, the petitioner filed I.A.No.119 of 2019 requesting the Court to itself collect the stamp duty and penalty on the said agreement of sale on the ground that the document is unregistered. This application has also been dismissed.

7. Challenging this order, the petitioner filed C.R.P.No.1053 of 2019.

8. Notices in both these revisions are served on the respondents, but there is no representation for the respondents.

9. When the prayer of the petitioner in both these revisions and in I.A.No.417 of 2018 and I.A.No.119 of 2019 is that the agreement of sale dated 22.12.2009 is insufficiently stamped and it should be impounded and proper stamp duty and penalty is to be collected, it is shocking that the Court below did not consider the said aspect and proceeded to decide whether the document requires registration and whether it is admissible in evidence for want of registration. In my opinion, the Court below has misdirected itself and decided the issues which were not called upon to be decided in I.A.No.417 of 2018 and I.A.No.119 of 2019.

10. Accordingly, both the Revisions are allowed and order dated 15.11.2018 in I.A.No.417 of 2018 in O.S.No.124 of 2013 as well as the order dated 14.03.2019 in I.A.No.119 of 2019 in O.S.No.124 of 2013 are set aside; I.A.No.417 of 2018 is allowed; and the Court below is directed

to send the agreement of sale dated 22.12.2009 to the District Registrar, Khammam for the purpose of impounding and collection of stamp duty and penalty. There shall be no order as to costs.

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

JUSTICE M.S. RAMACHANDRA RAO

Date: 31.07.2019

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