

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP. No. 1701 of 2018

ORDER:

This Revision is filed challenging the order dt.06.02.2018 in I.A.No.1372 of 2017 in RCC.No.1 of 2012 of Principal Junior Civil Judge, Warangal.

2. Petitioner is the tenant of the respondent.

3. Respondent filed the said RCC against the petitioner seeking eviction of the petitioner from the RCC schedule premises alleging that the petitioner had committed default in payment of rents from February, 2009.

4. During the course of evidence of RW1 i.e., the petitioner, he sought to file photo copy of the Lease Deed dt.13.04.2009 allegedly executed by the respondent in his favour on Rs.100/- non-judicial stamp paper. He contended that he had given notice under Order XII Rule 8 CPC to the respondent to produce the original Lease Deed but the respondent denied having possession of the document and so the secondary evidence of the said document should be permitted.

5. Counter was filed by the respondent opposing the said application stating that even the original was insufficiently

stamped, and stamp duty and penalty cannot be collected on a photostat copy. It was pointed out that since there is no dispute with regard to the jural relationship in between the parties, if the said document is not marked, no prejudice would be caused to the petitioner.

6. By order dt.06.02.2018, the Court below dismissed the said application. It observed that a transaction can be proved either by primary evidence or secondary evidence and though the respondent failed to produce the original of the Lease Deed, since the document in question is insufficiently stamped, photostat copy cannot be received and, in any event, it is inadmissible in evidence.

7. Assailing the same, this Revision is filed.

8. Counsel for the petitioner sought to contend that grave prejudice would be caused to the petitioner if the said document is not received in evidence and the petitioner be permitted to mark the photostat copy of Lease Deed though it is insufficiently stamped and unregistered.

9. Counsel for the respondent refuted the above contentions and supported the order passed by the Court below.

10. Admittedly, even the original of the Lease Deed dt.13.04.2009 is unregistered and insufficiently stamped. Therefore, even if the original was sought to be produced, it would be inadmissible in evidence. The terms of the Lease in any event cannot be gone into because it is unregistered and insufficiently stamped. Further, the period of lease under the said document is only 11 months. Since the tenancy is admitted, no useful purpose would be served in marking the photostat copy of the document.

11. Also, photostat copy of a document cannot be impounded under the provisions of the Indian Stamp Act, 1899 and deficit stamp duty and penalty cannot be collected.

12. Therefore, I 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.

13. Accordingly, this Civil Revision Petition fails and it is dismissed. No order as to costs.

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

M.S. RAMACHANDRA RAO, J

26th March, 2019.

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