

HON'BLE SRI JUSTICE P. NAVEEN RAO

CIVIL REVISION PETITION No.147 of 2020

ORDER:

This Civil Revision Petition under Article 227 of the Constitution of India is filed by the petitioners, who are plaintiffs, aggrieved by the docket order dt.26.11.2019 in O.S.No.7 of 2013 passed by the VIII Additional District (FTC), Warangal, Warangal District.

2. In the suit O.S.No.7 of 2013, the plaintiffs sought to rely upon an unregistered Sale Deed dt.06.04.1980 to prove their possessory claim on the suit schedule property. An objection was raised by the respondents/defendants on the admissibility of the said document by relying on Section 49 of the Indian Registration Act. On due consideration of the respective submissions and the precedent decisions, the trial Court held that since the document is not registered, it cannot be relied upon even for collateral purpose and, therefore, the document cannot be received in evidence.

3. It is not in dispute that the petitioners/plaintiffs sought to rely upon the said unregistered document to prove the mode of entry into the possession of the suit schedule property and their possessory claim. The said contention is rejected by the trial Court vide docket order dt.26.11.2019. Hence the present Civil Revision Petition.

4. Heard learned counsel for the petitioners/plaintiffs Sri S. Ganesh and Sri V. Satyam Reddy, learned counsel representing Sri Pasham Ravindra Reddy, learned counsel for respondent Nos.1 and 2. None appears for respondent Nos.3 to 11.

5. While placing reliance on the decisions of the Apex Court in YELLAPU UMA MAHESWARI v. BUDDHA JAGADHEESWARA RAO¹ and BONDAR SINGH v. NIHAL SINGH², learned counsel for the petitioners sought to contend that even an unregistered document can be relied upon for collateral purposes i.e. to prove possession over the suit schedule property. The learned counsel also sought to contend that additional stamp duty was already paid and, therefore, there can be no embargo for receiving the document in evidence to prove the possession of the plaintiffs.

6. *Per contra*, according to the learned counsel Sri V. Satyam Reddy, the very issue was considered by the High Court of Andhra Pradesh in V. MADHUSUDHAN RAO v. S. NIRMALA BAI³, where in an identical factual situation, the High Court of Andhra Pradesh held that the covenants of an unregistered document cannot be relied upon to prove delivery of possession and valid vesting of possession under the said document and held that it does not amount to

¹ (2015) 16 SCC 787

² (2003) 4 SCC 161

³ 2019 (3) ALT 79 (AP)

collateral purpose and, therefore, such a document is not admissible in evidence.

7. There is no dispute regarding the principle of law laid down on taking in evidence of an unregistered sale deed for collateral purpose. But, what is collateral purpose is a matter, which requires consideration. The two decisions of the Apex Court relied on by the learned counsel for the petitioners do not come to the aid of the petitioners in support of their claim.

8. I am in complete agreement with the view taken by the trial Court supported by the principle laid down by a learned single Judge of High Court of Andhra Pradesh in MADHUSUDHAN RAO's case (supra 3). The issue need not detain any further having regard to the principle laid down by the High Court of Andhra Pradesh in the said judgment. Paragraph Nos.15 and 17 of the said judgment read as under:

“15. Therefore, it is now clear that (1) a collateral transaction is a transaction which is independent of, or divisible from, the transaction which by law requires registration.

(2) a term of a document cannot be proved by using the document which is inadmissible for want of registration.

Proving a term in a document cannot be really called as a collateral purpose, particularly, in a case like this. In the case on hand, the document that is sought to be marked is styled as a sale deed. The recitals in the document refer to it as sale deed only. The body of the document clearly mentions that the property is being sold for a total sale consideration of Rs. 79,000/- and having received the said amount the possession is

delivered to the purchaser. Therefore, the payment of sale consideration, transfer of title and delivery of possession are an integral part of the same transaction. This delivery of possession which the petitioner wants to prove is not a transaction independent of, or divisible from the other part of the transaction in the document. The law on the subject has been succinctly laid down by the Hon'ble Supreme Court of India. It clearly states that if the transaction is separate and distinct from the main transaction, it is a collateral transaction. Similarly, if the document itself is inadmissible for want of registration, none of the terms of the document can be used for a collateral purpose also. In Annamadevulu Chandrararo 's case (3 supra) cited by the respondent, the suit was filed for partition. In the course of examination of D.W. 1, a document was sought to be filed which has an enumeration of the shares allotted to each sharer in an earlier oral partition. This is clear from para 2 of the judgment. In those circumstances, i.e., an earlier partition and the later enumeration of the shares, the learned single Judge of this Court held that the document was admissible and it can be received in evidence for a 'collateral' purpose. In Para 12 of the judgment, the learned single Judge clearly cautioned that the document can be received by making an endorsement on the face of it that it is marked for a collateral purpose of proving the possession of the defendant. Learned single Judge also cautioned that the document shall not be looked into for the purpose of establishing the share of the respective parties.

17. In that view of the matter, this Court is of the opinion that the sale deed in question cannot be received in evidence as it is not registered. It cannot also be received for a collateral purpose for the simple reason that the possession is not a collateral transaction that is independent or divisible from transfer recorded in the sale deed. As the document is not registered, none of its terms can also be looked into.”

9. In view thereof, the decision of the trial Court is upheld and the present Civil Revision Petition is liable to be dismissed. Accordingly, the Civil Revision Petition is

dismissed. No order as to costs. Miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed.

JUSTICE P. NAVEEN RAO

18.02.2020.
Msr



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Msr