THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.2171 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/defendant No.2, challenging the order, dated 18.07.2019, passed in I.A.No.851 of 2019 in O.S.No.551 of 2006, by the Principal District Judge, Ranga Reddy District at L.B.Nagar, wherein, the application filed by the revision petitioner/defendant No.2, under Section 151 of CPC, to send the two documents returned by the District Registrar, Ranga Reddy district, to follow one of the two courses in clause (a) and (b) of Section 40 of Stamp Act, for fixing the quantum of stamp duty and penalty payable on said document as per direction of the Hon'ble High Court, was partly allowed directing the District Court Section, to assess the stamp duty and penalty payable on the document dated 23.03.1996 and dismissed the relief sought to send the document, dated 04.11.1981, to the District Registrar, Ranga Reddy District, for assessment of stamp duty and penalty.

2. Heard the learned counsel for both the sides and perused the record.

3. The learned counsel for the revision petitioner/defendant No.2 would contend that the Court below had gone beyond the order dated 19.01.2018 passed in C.R.P.No.4664 of 2017 by this Court. Both the subject documents shall be impounded under Section 33 of the Indian Stamp Act, 1899 and further they are required to be forwarded to the Collector for that purpose. The

Court below is not correct in directing the District Court Section to assess the stamp duty and penalty payable on document dated 23.03.1996, since the District Court Section is not competent to do so. The authority concerned has to collect the stamp duty and penalty in terms of Section 40 of the Stamp Act, 1899, as directed by this Court. The document 'Ikrarnama' dated 04.11.1981 pertains to (e) and (f) of the plaint schedule land, wherein survey numbers are mentioned. Therefore, the District Registrar ought to have determined the stamp duty and penalty and ultimately prayed to set aside the impugned order and allow the Civil Revision Petition as prayed for.

4. On the other hand, learned counsel for the respondent No.1/plaintiff would contend that the Court below, while dealing with the subject matter, assigned number of reasons and allowed the subject interlocutory application in part directing the District Court Section to assess the stamp duty and penalty payable on the document, dated 23.03.1996 and rightly declined to send the document 'Ikrarnama' dated 04.11.1981, returned by the District Registrar, for assessment of the stamp duty and penalty payable and ultimately prayed to dismiss the Civil Revision Petition.

5. In view of the submissions made by both sides, the point for determination is:

> "Whether the impugned order dated 18.07.2019 passed in I.A.No.851 of 2019 in O.S.No.551 of 2006, by the Principal District Judge, Ranga Reddy District at L.B.Nagar, is liable to be set aside."

6. As seen from the record, the document 'Ikrarnama' dated 04.11.1981 contains only survey numbers of the property. Moreover, the name of the village, where those survey numbers are situated, and extents of the property are not mentioned. On earlier occasion when the document, 'Ikrarnama' dated 04.11.1981, was sent to the District Registrar, Ranga Reddy district, he assigned the aforesaid reasons including other reasons and declined to assess the stamp duty and penalty on the said document 'Ikrarnama', dated 04.11.1981. Section 40 of the Indian Stamp Act, 1899, which deals with the power of the Collector to stamp instruments impounded. To assess stamp duty payable on a document, the document shall contain extent and situation/ location of the property. The document 'Ikrarnama' dated 04.11.1981 does not contain those particulars. On perusal of the photocopy of the document, 'Ikrarnama' dated 04.11.1981 shows only the lands in Sy.Nos.344 and 348. While assessing the stamp duty on a document, no enquiry is permissible to find out the extent of the land purported to have been transferred so also the village where the land is situated. Therefore, the document 'Ikrarnama' dated 04.11.1981 is incapable for assessment of stamp duty and penalty payable on it. Therefore, the Court below is justified in passing the impugned order to that extent. Further, the Court below has absolute power to direct its office to assess stamp duty and penalty in respect of the document, dated 23.03.1996 and therefore, the impugned order with regard to assessment of stamp duty and penalty in respect of the document, dated

23.03.1996 does not suffer from any legal infirmity or perversity. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

7. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, pending if any, shall stand closed.

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Dr. SHAMEEM AKTHER, J

Date: 22nd January, 2020
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