

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**TUESDAY, THE TWELFTH DAY OF APRIL
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE A.VENKATESHWARA REDDY

CIVIL REVISION PETITION NO: 1758 OF 2019

Between:

T. Mahendra Prasad, S/o.Basaveshwar Rao, Aged 69 years, R/o.H.No.11-18-236, Kasubugga Housing Colony Laxmipuram, Warangal.

...Petitioner herein/Defendant No.2 in O.S.

AND

1. T. Narsaiah, (Died per LRs)
2. T.Rajamma (died),
3. Smt. E. Kalavathi, W/o.Raja Mogili, R/o.16-5-128, Perukawada, Railway Gate, Warangal.
4. Smt. Arusam Pushpa, W/o.Veera Mallaiah R/o.Pochammagunta, Warangal.
5. Tippani Kumaraswamy, S/o.late Narsaiah R/o.16-5-129, Perukawada, Railway Gate, Warangal.
6. Smt. Arusam Sujatha, W/o.Sambaiah R/o. Society Colony, Kasibugga, Warangal.
7. Tippani Ashok Kumar, S/o. late Narsaiah, R/o.16-5-129, Perukawada, Railway Gate, Warangal.

...Respondents herein/Plaintiffs in O.S.

8. G.Y. Murahari, S/o. Ramachandraiah.
9. Smt. Garimalla Vaidevi, W/o. late Yathiraju.
10. Miss Garimalla Sirisha, D/o. late Yathiraju
11. Garimalla Deepak, S/o. late Yathiraju
12. Garimalla Vishnu, S/o.late Yathiraju

**(NOTE - THE RESPONDENT Nos. 8 TO 12 HEREIN ARE NOT
NECESSARY PARTIES TO THIS CRP ONLY)**

...RESPONDENTS

IA NO: 1 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay of all further proceedings in O.S. No. 538 of 2002 on the file of the court of the Principal Senior Civil District Judge, Warangal, pending disposal of the above revision petition.

Counsel for the Petitioner: SRI Y. SRINIVASA MURTHY

Counsel for the Respondent Nos.3,4,5,6 & 7: SRI H. VENUGOPAL

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE A.VENKATESHWARA REDDY

CIVIL REVISION PETITION No.1758 OF 2019

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India by the defendant No.2 assailing the docket order dated 27.06.2019 in O.S.No.538 of 2002 on the file of the learned Principal Senior Civil Judge at Warangal.

2. As per the docket order dated 27.06.2019 at the time of recording the evidence of PW1 in O.S.No.538 of 2002, in a suit for declaration of title and perpetual injunction, when certain documents are sought to be marked, among them some documents are unregistered sale deeds, the 2nd defendant has raised objection. Considering the objection raised by the learned counsel for the 2nd defendant, the trial Court has held that though the document requires compulsorily registration, still an unregistered document could be marked for collateral purposes. A statutory obligation is cast on the Court to impound the documents at the time of receiving the same in evidence if it is duly stamped. Accordingly, the said unregistered simple sale deeds were

impounded and they are permitted to be marked as exhibits on behalf of the plaintiffs with a liberty to the learned counsel for the defendants to cross-examine the witness PW1 with regard to admissibility and genuineness of the documents, which will be decided after full-fledged trial. This order is under challenge by the defendant No.2 through this revision petition.

3. Heard learned counsel for the defendant No.2 and the plaintiffs. Perused the record. The Submissions made by the learned counsel for the parties have received due consideration of the Court.

4. For sake of convenience, the parties hereinafter are referred to as the plaintiffs and defendants, as arrayed in the trial Court in original suit.

5. The plaintiffs have filed the original suit for declaration of title and recovery of possession in the year 2002, On completing pleadings, issues settled. When the evidence affidavit of PW1 was filed certain documents are proposed to be marked in his evidence. At that time, the

defendant No.2 has taken objection stating that unregistered sale deeds cannot be marked. The trial Court has considered the said objection and permitted for exhibiting the said documents which are unregistered sale deeds with an observation that if such documents are impounded with required stamp duty and penalty, they may be considered for collateral purposes and the defendants are at liberty to cross-examine the witness (PW1) with regard to the admissibility and genuineness of the said documents.

6. As per the record, learned counsel for the defendant No.2 has filed a memo dated 26.06.2019 raising objections for marking the said documents. As per the memo, document Nos.2 to 4 i.e. original unregistered sale deeds dated 23.06.1972 of P.Venkateswarlu, 03.08.1980 of P.Venkateswarlu and 09.06.1974 of T.Narsaiah are proposed to be marked for which the defendants have raised objection. The document No.1 is certified copy of sale deed bearing document No.3074 of 1983. There cannot be any objection as to marking the said document. However, with regard to the objection on document Nos.2 to 4 in the memo dated

26.06.2019 the trial Court has clearly held that there is a statutory obligation cast upon the Court to impound a document at the time of receiving it in evidence if it is not duly stamped and accordingly, all the above three unregistered sale deeds dated 23.06.1972, 03.08.1980 and 09.06.1974 were impounded with required stamp duty and they are ordered to be received in evidence for collateral purposes with a liberty to the defendants to cross-examine the witness (PW1) with reference to the admissibility and genuineness of the said documents.

7. Learned counsel for the revision petitioner strenuously contends that if such unregistered sale deeds are received in evidence in a suit for declaration of title, it will go against the spirit of Section 36 of Stamps Act and Section 17 of Registration Act and all these documents are liable to be rejected.

8. Per contra learned counsel for the respondents/plaintiffs submits that mere exhibiting the documents itself is not a sufficient proof of such documents and the trial Court has rightly held that the documents may

be received on payment of deficit stamp duty with a liberty to the defendants to cross-examine PW1 with reference to admissibility of the said documents and relied on the principles laid by this Court in the following decisions :

- (1) **K.Ramamoorthi Vs. C.Surendranatha Reddy** ¹.
- (2) **Kala Devi and others Vs.Anthi Reddy and others** ².

9. In the above decisions, it is held that an unregistered sale deed is admissible for collateral purposes to the limited extent of showing possession of the plaintiff and that in a document of sale, possession is treated as collateral to the main transaction affecting the immovable property. It may be stated that a full Bench of this Court in the case of **Land Acquisition Officer, Vijayawada Thermal Station Vs. Nutalapati Venkata Rao**³ has considered the issue with regard to raising objection as to the mode of proof subsequently and according to that nobody connected with the said document was examined and it is not proved. Similarly, the Hon'ble Supreme Court in **Venkatachala Gounder and Vs.Arulmigu Visweswara Swamy and VP**

¹ 2012 (6) ALD 163

² 2019 (5) ALD 314

³ 1990 (3) ALT 305

Temple ⁴ case has considered the issue of admissibility of documentary evidence and held that the objections as to the admissibility of the document in evidence may be classified into two classes i.e. (i) an objection that the document which is sought to be proved is itself inadmissible in evidence; and (ii) where the objection does not dispute the admissibility of the document in evidence but is directed towards the mode of proof alleging the same to be irregular or insufficient.

10. In the first case merely because a document has been marked as 'an exhibit' the objection as to the admissibility is not excluded and is available to be raised even at a later stage or even in an appeal or in revision. In the later case, objection should be taken before evidence is tendered and once the document has been admitted in the evidence and marked as an exhibit, the objection that it should not have been admitted in evidence or that the mode adopted for proving the document is irregular cannot be allowed to be raised at any stage subsequent to marking of the document as exhibit.

⁴ 2004 (1) ALD 18 (SC)

11. In **SMS Tea Estates Private Limited Vs. Chandmari Tea Company Private Limited**⁵ the Hon'ble Supreme Court has considered the case of compulsory registerable document which was not registered and not duly stamped and laid down the principles for receipt of such documents in evidence.

12. A learned Single Judge of this Court in **Boggavarapu Narasimhulu v. Sriram Ramanaiah**⁶ considered the case of unregistered agreement of sale following the judgment of a full Bench of this Court holding that the objector can raise an objection with regard to admissibility of a document on the ground that it has been not duly registered despite the fact that the said document has already been exhibited and admitted in evidence.

13. It may be stated that the objection raised by the defendant No.2 for marking unregistered simple sale deed which is duly stamped and it is the duty of a Court of Law to exclude all irrelevant or inadmissible evidence even if no

⁵ 2011 (5) ALD 149 (SC)

⁶ 2014 (2) ALD 426

objection was taken by the opposite party. Here in the instant case, the learned trial Court has held that the unregistered sale deeds are duly impounded with required stamp duty though they are unregistered and that they are only received in evidence for collateral purposes and that the defendant is entitled to raise all such objections as to the admissibility and genuineness of these documents. Therefore, in view of the above settled legal position, the order of the trial Court is sustained and it does not warrant any interference by this Court as the said document Nos.2 to 4, the unregistered sale deeds are impounded with the requisite stamp duty in accordance with the Stamp Act.

14. However, the defendant No.2 is at liberty to raise all such pleas as to the admissibility, genuineness of the said unregistered sale deeds documents dated 23.06.1972, 03.08.1980 and 09.06.1974 as mentioned in the objection memo dated 26.06.2019 in the cross-examination of PW1. With the above observations, this Civil Revision Petition is disposed of.

15. In the result, this CRP is disposed of without costs.
Consequent thereto, miscellaneous petitions, if any, pending,
in this CRP, shall stand closed.

//TRUE COPY//

SD/-B.SATYAVATHI
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Principal Senior Civil Judge, Warangal.
2. One CC to Sri Y. Srinivasa Murthy, Advocate [OPUC]
3. One CC to Sri H. Venugopal, Advocate [OPUC]
4. Two CD Copies
5. One Spare Copy

gbr

HIGH COURT

DATED: 12/04/2022



ORDER

CRP.No.1758 of 2019

DISPOSING OF THE CRP
WITHOUT COSTS

18/6/2022
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