
(2011) 08 AP CK 0042

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 2558 of 2011

C. Prithvi Raj Reddy and C. Sanjay Raj Reddy

APPELLANT

Vs

G.P.R. Housing Pvt. Ltd.

RESPONDENT

Date of Decision : 01-08-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151
Stamp Act, 1899 — Section 36

Citation : (2011) 6 ALD 128

Hon'ble Judges : G. Rohini, J

Bench : Single Bench

Advocate : Ranga Rao Nellutla, for the Appellant;

Final Decision : Dismissed

Judgement

G. Rohini, J.—This Civil Revision Petition is directed against the order dated 19.04.2011 in I.A. No. 1821 of 2010 in O.S. No. 924 of 2006 on the file of the Court of the I-Additional District Judge, Rangareddy District at L.B. Nagar.

2. The Defendants 1 and 2 are the revision Petitioners. The 1st Respondent herein is the Plaintiff and the suit was filed for specific performance of an Agreement of Sale, dated 6.11.2000, allegedly executed by the Defendants in favor of the Plaintiff in respect of the suit schedule property. During the trial the Plaintiff filed his affidavit in lieu of chief-examination as P.W.1. He also filed certain documents along his affidavit including the Agreement of Sale, dated 6.11.2000 which was marked in evidence as Ex.A-1 on behalf of the Plaintiff. Subsequently, when an advocate-commissioner was appointed for the purpose of cross-examination and the matter was coming up for cross-examination of P.W.1, the Defendants 1 & 2/ Revision Petitioners filed I.A. No. 1821 of 2010 u/s 151 of CPC with a prayer to reject the Agreement of Sale, dated 6.11.2000 marked as Ex.A-1 on the ground that the said document was inadmissible in evidence since it was insufficiently stamped. It was pleaded that the said agreement itself contained a specific recital indicating delivery of possession and therefore the

document required stamp duty as per Explanation-I to Article 47-A of Schedule I-A of the Indian Stamp Act, 1899 as a sale deed. It was also pleaded that since the said document was marked in evidence in the absence of the counsel for the Defendants / Revision Petitioners, the objection as to the admissibility could not be taken earlier. The Respondent No. 1/Plaintiff filed a counter disputing the plea that the document in question was inadmissible in evidence. The Court below after hearing both the parties by order dated 19.04.2011 dismissed I.A. No. 1821 of 2010 relying upon Section 36 of the Indian Stamp Act, 1899. Aggrieved by the said order, the present Civil Revision Petition is filed.

3. I have heard the learned Counsel for the Petitioners and perused the material available on record.

4. Admittedly the document in question was already marked in evidence as Ex.A-1. As per Section 36 of the Stamp Act, once a document has been admitted in evidence the same cannot be called in question. In the instant case, the document in question was marked as exhibit without any objection regarding the sufficiency of the stamp duty payable, Having failing to raise an objection at the appropriate stage i.e., at the time of marking the document, it is not open to the Revision Petitioners/Defendants to raise an objection with regard to the admissibility of the document at a later stage. It was so held by the Supreme Court in *Javer Chand and Others Vs. Pukhraj Surana*, and *P.C. Purushothama Reddiar Vs. S. Perumal*, while interpreting the scope and object of Section 36 of the Stamp Act. The same principle has been reiterated in *Shyamal Kumar Roy Vs. Sushil Kumar Agarwal*, as under:

It is of little or No. consequence as to whether a document has been admitted in evidence on determination of a question as regards admissibility thereof or upon dispensation of formal proof therefore. If a party to the lies intends that an instrument produced by the other party being insufficiently stamped should not be admitted in evidence, he must raise an objection thereto at the appropriate stage. He may not do so only at his peril.

5. In the light of the settled position of law as noticed above, the Court below cannot be said to have committed any error in declining to reject the document which was already marked as Ex.A-1. The decision of the Supreme Court in *Avinash Kumar Chauhan v. Vijay Krishna Mishra and Anr.* 2009 (1) Law Herlad (SC) 360 decision of the High Court of Calcutta reported in *Smt. Gita Devi Shah and Ors. v. Smt. Chandra Moni Karnani and Ors.* 1993(2) A.P.L.J. 64 (DNC) wherein it was held that the document or title which was not properly stamped was inadmissible in evidence have No. bearing on the issue involved in the case on hand.

6. Therefore the interference by this Court is not warranted and accordingly the Civil Revision Petition is dismissed. No Costs.