(1999) 09 AP CK 0117

In the Andhra Pradesh High Court

Case No : CRP No. 3139 of 1999

K. Chandramouli APPELLANT

Vs

Katta Satyanarayana Reddy and another RESPONDENT

Date of Decision : 08-09-1999

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 2 Rule 7
Stamp Act, 1899 — Section 19, 35

Citation : AIR 2000 AP 17 : (1999) 6 ALD 229 : (1999) 6 ALT 138 : (2000) 1 CivCC 345

Hon'ble Judges : B.S. Raikote, J

Bench : Single Bench

Advocate : Mr. V.V. Narasimha Rao, for the Appellant;

Judgement

B.S. Raikote, J. 1. The petitioner is the first defendant. He has challenged the order dated 13-7-1999 passed in CFR No.4487 of 1999 in OS No.42 of 1992 on the file of the Additional Senior Civil Judge, Kurnool. In the impugned order, the Court below held that Ex.A2 endorsement made on promissory note does not require stamp duty, therefore, it is inadmissible in evidence and consequently the petition filed by the petitioner under Order 11, Rule 7 of CPC was rejected.

2. Item No.62 of Schedule 1-A of Indian Stamp Act, 1899 has exempted transfer by endorsement of a bill of exchange, cheque or promissory note.

It is relevant to extract Item No.62 Schedule 1-A.

Exemptions:

Transfers by endorsement

(a) of a bill of exchange, cheque or promissory note;

(b) of a bill of lading, delivery order warrant for foods, or other mercantile document of title to goods;

(c) of a policy of insurance;

(d) of securities of the (Central Government).

From the reading of the above item, it is clear that under the category of exemptions under clause (a) endorsement made on bill of exchange, cheque or promissory note are exempted. It follows that no stamp duty is required to be paid on the endorsement of transfer made on the promissory note. In the instant case Ex.Al is the promissory note on which Ex.A2 endorsement is made. It is not in dispute that a promissory note bears necessary stamp duty, but the contention of the petitioner is that even the endorsement also should bear necessary stamps. In view of the exemption granted under Item No.62 Schedule 1-A of the Indian Stamp Act under the category of exemptions, endorsement is exempted from stamp duly, no illegality is committed by the Court below by holding that the endorsement Ex.A2 does not require any stamp duty.

3. In an earlier occasion, in the very case, I remember the attention of the Court was invited to the judgment of this Court in Venkatasubbaiah v. Bhushayya, 1963 (1) An.WR (NRC) 31. That was a case in which this Court considered the fact of Section 35 of the Stamp Act. It held that the promissory executed in other State was liable for stamp duty in the State where it was produced, and for not paying necessary stamp duty, the document would be inadmissible. For such a contingency Section 19 of the Indian Stamp Act would apply. According to this Section, promissory note drawn or made out of India shall, before it is presented for acceptance or payment or endorses, transfers or otherwise negotiate in India, affix thereto the proper stamp and cancel the same. Prima facie the said section would not apply to the promissory note executed in India, and any promissory note executed in one State may be presented in any other State in India with the stamp bearing on the promissory note, no additional stamp duty need be paid. Section 19 contemplates that a promissory note drawn out of India and used in India or any State, it requires proper stamp duty as per Indian Law. In this view of the matter, the said judgment is not applicable to the facts of this case. Even otherwise, the said judgment considered the effect of Section 19 of the Stamp Act. In any view of the matter, the order of the Court below does not call for interference. Accordingly, I pass the order as under:

4. The revision petition is dismissed, but in the circumstances without costs.

