

(1993) 03 AP CK 0024
In the Andhra Pradesh High Court
Case No : C.R.P. No. 2749 of 1989

Montey Appalaraju and another	Vs	APPELLANT
Kotteti Talupulamma alias Tallamma and others		RESPONDENT

Date of Decision : 19-03-1993

Acts Referred:

Andhra Pradesh Stamp Rules — Article 12
Registration Act, 1908 — Section 17, 49
Stamp Act, 1899 — Section 2(14), 3, 35

Citation : AIR 1993 AP 331 : (1993) 3 ALT 21

Hon'ble Judges : Radhakrishna Rao, J

Bench : Single Bench

Advocate : Mr. C. Poornaiah, for the Appellant; Mr. E. Subba Rao, for the Respondent

Judgement

1. This revision petition is directed, at the instance of the petitioners-plaintiffs, against the order dated 24th August, 1989 passed by the Subordinate Judge, Peddapuram in O.S. 6 of 1988 on his file, holding that the document dated 16-8-35 sought to be marked by the petitioners-plaintiffs during the chief-examination of P.W. 1 (Ist plaintiff) is inadmissible in evidence.

2. The learned Subordinate Judge found that the document in question is a private award passed by the arbitrators creating and conferring rights on the parties with regard to the immovable property worth more than Rs. 100/- and as such it is compulsorily registerable and as the document is not registered and is also insufficiently stamped, it is not admissible in evidence.

3. The document in question is an unregistered one executed on a one rupee worth-non-judicial stamp and it is dated 16-3-1935. The case of the petitioners-plaintiffs is that it is only a family arrangement and so it is not compulsorily registerable and it does not also require any stamp. On the other hand, the case put forth by the respondents-defendants is that that it is not a family arrangement but it is an award passed by the elders conferring rights on the

parties. Any one on plaintiffs" side or on behalf of the defendants" side did not sign the document and it is only signed by the elders by giving a decision. The crucial gest that has to be made in the case of the document sought to be admissible is to read the contents of the document and also to see the capacity of the persons who have signed the document. There is no dispute about the fact that in the case of a document relating to family settlement, it does not require registration. S. 2(14) of the Indian Stamp Act defines an instrument as a document by which any right or liability is or purports to be created, transferred, limited, extended, extinguished or recorded. On a perusal of the contents of the document, it is clear that some limited rights are conferred in respect of some properties on the parties. S. 35 of the Indian Stamp Act lays down that instruments not duly stamped are inadmissible in evidence. Under Schedule I, Art. 12 of the Indian Stamp Rules {Andhra Pradesh) an award is liable for stamp duty as a bond. S. 17 of the Indian Registration Act prescribed that an award creating rights in immovable property worth more than Rs. 100/- is compulsorily registrable. S. 49 of the Indian Registration Act deals with the effect of non-registration of documents and as per Cl. (c) of the said section a document which requires registration under S. 17 when not registered cannot be received as evidence. From a reading of the contents of the document, it has to be construed that it is an award and the argument that it is a family arrangement cannot be accepted and the lower Court rightly did it. A private award requires registration before making it as a rule of Court. In Satish Kumar v. Surender Kumar AIR 1970 SC 33 it was held that a private award effecting partition of immovable property worth more than Rs. 100/- requires registration before making it a rule of Court. In Ratan Lal Sharma Vs. Purshottam Harit, also it was held that an award creating right in immovable property worth more than Rs. 100/- is compulsorily registerable in view of Ss. 17 and 49 of the Indian Registration Act. On a construction of the recitals in the document it is found that it is the decision of the elders and so it cannot be construed that it is a family settlement but it is only a private award passed by the elder. In Orla v. Deputy Director of Consolidation AIR 1976 SC 397 it was held that an oral family settlement needs no registration and registration would be necessary only if the terms of family arrangement are reduced into writing. In Somthim Veerabhadra Rao and Another Vs. Duggirala Lakshmi Devi, it is true that it was held that a document of family arrangement does not require registration since it is a family settlement. As already stated the document in question is a private award given by the Elders but not a family arrangement. In Ram Charan Das Vs. Girjanandini Devi and Others, it was held that even if the family arrangement was not registered it could be used for a collateral purpose viz. for the purpose of showing the nature and character of possession of the parties in pursuance of the family settlement. There is no dispute with regard to the above general principles. But in this case the recitals of the document clearly bring the document under the category of a private award which is compulsorily registerable. So the view taken by the lower Court is perfectly correct and does not warrant in interference. There is no illegality in the order passed by the lower

Court.

4. In the result, the Civil Revision Petition is dismissed. No costs.

Revision dismissed.