
(1993) 11 AP CK 0024
In the Andhra Pradesh High Court
Case No : C.R.P. No. 2063 of 1992

Pattem Gangi Reddy and Others

APPELLANT

Vs

Pattem Subba Reddy

RESPONDENT

Date of Decision : 04-11-1993

Acts Referred:

Registration Act, 1908 — Section 17, 49
Stamp Act, 1899 — Section 35

Citation : (1993) 3 ALT 536 : (1993) 2 APLJ 455

Hon'ble Judges : B. Subhashan Reddy, J

Bench : Single Bench

Advocate : M.N. Narsimha Reddy, for the Appellant; G. Dasaradharami Reddy, for the Respondent

Final Decision : Allowed

Judgement

B. Subhashan Reddy, J.—This revision petition is directed against the order passed by the Court below in admitting two documents and marking them as Exs.A-1 and A-2. Objection was raised when the same were sought to be marked as exhibits. The objection was that the documents are not agreements to sell as projected by the plaintiff, but they are outright sale deeds and as they are neither stamped nor registered in accordance with law, they are inadmissible in evidence. Repelling the contentions of the defendants, who are the revision petitioners, the Court below has held that the documents filed are agreements to sell as they are titled as "Kararunamas". No doubt, "Kararunamas" (agreements) are admissible in evidence as they are not compulsorily registrable. Of course again, there is a distinction as to whether the agreement is simpliciter without delivery of possession or with delivery of possession as the same has got significance for the documents executed on or after 16-8-1986. But these being documents of 30-7-1982, there is no difference if the agreements are simpliciter or coupled with delivery of possession. The question for consideration is as to whether these documents which are marked by the Court below as Exs.A-1 and A-2 in spite of the objection raised by the party in possession are really

agreements to sell or sale deeds. One should not be led away by the title of the document. Title may be agreement, but recitals connote a real sale deed. One may be termed as sale deed, but in effect, it may be a mortgage deed. As such, the title of the document is not determinative of the true nature of the document. The recitals of the document had to be taken into consideration for construing the nature of a document. These two documents Exs.A-1 and A-2 recite that the vendors are the owners of the property and the actual and physical possession of the same has been handed over together with a well, trees etc standing thereon and that from the said date onwards, neither themselves nor any person claiming through them has got any concern and that the vendees shall be entitled to enjoy the same without any disturbance or interruption by the vendors or any person claiming through them and if the vendees sustain any loss, the vendors will indemnify the same. It is also stated that the vendees are entitled to get their names mutated as owners. Nothing further to be done is stated in the alleged agreements. These documents are out-and-out sale deeds and not agreements to sell.

2. In the circumstances, the order of the Court below is set aside and Exs.A-1 and A-2 shall be taken out of the record of the suit and they shall not be taken cognizance of, for considering the evidence on behalf of the plaintiff. The revision petition is allowed. No costs.