

(2011) 07 AP CK 0028
In the Andhra Pradesh High Court
Case No : C.R.P. 2376 of 2010

Sirikonda Satyanarayana

APPELLANT

Vs

Sirikonda Babu Rao and Others

RESPONDENT

Date of Decision : 18-07-2011

Acts Referred:

Court Fees Act, 1870 — Section 7

Citation : (2011) 5 ALD 315 : (2011) 5 ALT 699

Hon'ble Judges : N.R.L. Nageswara Rao, J

Bench : Single Bench

Advocate : Rupendra Mahendra, for the Appellant; R. Satyanarayana Reddy, for R1 to R6 and R.E.C. Vidyasagar, for R8, for the Respondent

Final Decision : Allowed

Judgement

N.R.L. Nageswara Rao, J.—The revision is filed against the rejection of plaint by the I Additional Senior Civil Judge, City Civil Court, Hyderabad on the ground that the valuation adopted by the revision Petitioner is not proper. The suit was filed for cancellation of sale deed dated 09.03.2007 and consideration mentioned therein was only Rs. 2 lakhs. The office took an objection that the registration value was shown as Rs. 60 lakhs and payment of court fee is not correct. The revision Petitioner has relied on a decision reported in Allam Venkateswara Reddy Vs. Golla Venkatanarayana and Others, supporting his contention. The learned Senior Civil Judge did not accept the contention.

2. It is to be noted that a learned Division Bench of this Court in Lakshminagar Housing Welfare Association, rep. by their Lakshminagar Housing Welfare Association Vs. Syed Sami @ Syed Samiuddin and Others, held that the court fee be computed on the market value of immovable property as on the date of filing of the suit and not on the face value for which the deed was executed. It was also held in the above judgment that the judgment reported in Allam Venkateswara Reddy Vs. Golla Venkatanarayana and Others, is per incur am and relied on the judgment reported in AIR 1939 MADRAS 462 (F.B), Kalachala

Kutumba Sastri v. Lakkaraju Bala Trripura Sundaramma. The above Full Bench judgment has not agreed with the judgment of another Division Bench reported in Dantuluri Venkatanarasimha Raju v. Dantuluri Chandrayya (1927) 14 AIR MAD 825, which took the view that Section 7(iv)(a) of the Court Fees Act, 1870 did not contemplate the market value on the immovable property, which is the subject matter of challenging the decree or deed.

3. But, however, the learned Counsel for the revision Petitioner has relied on the decision reported in Satheedevi v. Prasanna and Anr. (2010) 5 SCC 622 where under it was held that the court fee is required to be computed on value of the property for which the document was executed, and not on the market value. Further, it was held in the above judgment that the judgment reported in Allam Venkateswara Reddy Vs. Golla Venkatanarayana and Others, lay down the correct law. It is useful to refer to para.38 of the judgment as under:

In view of our analysis of the relevant statutory provisions, it must be held that the judgments of the Division Bench of Madras High Court and of the learned Single Judges in Venkata Narasimha Raju v. Chandrayya (supra), Navaraja v. Kaliappa Gounder (supra), Arunachalathammal v. Sudalaimuthu Pillai (supra) and Andalammal v. B. Kanniah (supra) as also the judgment of the learned Single Judge of Andhra Pradesh High Court in Allam Venkateswara Reddy v. Golla Venkatanarayana (supra) lay down correct law. In the first of these cases, the Division Bench of Madras High Court rightly observed that when there is a special rule in the Act for valuing the property for the purpose of court fee, that method of valuation must be adopted in preference to any other method and, as mentioned above, Section 40 of the Act certainly contains a special rule for valuing the property for the purpose of court fee and we do not see any reason why the expression "value of the property" used in Section 40(1) should be substituted with the expression "market value of the property".

4. Therefore, in view of the authoritative pronouncement of the Supreme Court in Satheedevi (2010) 5 SCC 622 that the court fee is payable on the sale consideration but not on the market value and upholding the judgment of the learned single judge of this Court in Allam Venkateswara Reddy as correct law, the court fee need not be paid on the market value.

5. On the analysis as above, the rejection of the plaint by the lower court is not proper. The lower court is directed to number the suit if otherwise in order.

6. Accordingly, the Civil Revision Petition is allowed. No costs.