(2006) 09 AP CK 0001

In the Andhra Pradesh High Court

Case No : C.R.P. No. 1831 of 2006

Velaga Veeraiah and Another APPELLANT

Vs

Chukkapalli Raghunadha Babu and Others RESPONDENT

Date of Decision : 19-09-2006

Acts Referred:
Stamp Act, 1899 — Section 2(14), 35, 6

Citation : (2006) 09 AP CK 0001

Hon'ble Judges : C.Y. Somayajulu, J

Bench : Single Bench

Advocate : G. Dharma Rao, for the Appellant;

Final Decision : Dismissed

Judgement

C.Y. Somayajulu, J.—When a document, dated 06-06-1997, is sought to be introduced in evidence, an objection was taken that it is not properly stamped and so the trial Court, after considering the rival contentions, held that it is an agreement and so it has to be stamped as an agreement and it is liable for stamp duty and penalty as contemplated u/s 35 of the Stamp Act. Aggrieved by that order the instant revision petition is preferred.

2. The contention of the learned Counsel for the revision petitioners is that the document in question is only a receipt but not an agreement, and, so, the document, if at all, is liable to stamp duty, as a receipt and placed strong reliance on Surjimull Murlidhar Chandick Vs. Ananta Lal Damani and Another, and A. Mohammed Rasheed Hajee Abdul Rahim Vs. A. Mohamed Rasheed Amjat Ibrahim, 9 where it is held that the intention of the parties and surrounding circumstances have to be taken into consideration for interpreting the document and contended that since the document is intended to be served only as a receipt, but not as an agreement, the order under revision is not sustainable. There is no representation on behalf of the respondents, though served.

3. The document in question reads:

The above document evidences receipt of Rs. 1,15,000/- towards sale consideration of a shop room of an area of 11 feet into 21 feet, and its executant agreeing to deliver the shop with shutters, wiring and flooring before February, 1998. The first part of the document is but a receipt. The second part relating to delivery of the shop room with shutters, wiring and flooring before February, 1998 is but an agreement. As per Section 6 of the Indian Stamp Act, when a document chargeable with duty falls within two or more descriptions of schedule 1 or schedule 1-A, as the case may be, it is chargeable with the highest of such duties. Since the document in question is both an agreement and receipt and since agreement attracts more Stamp duty, the document has to be stamped as an agreement as per schedule 1-A of the Stamp Act as amended in the Andhra Pradesh. Even according to the ratio in the two decisions relied on by the learned Counsel for the revision petitioners since the intention of the parties, as gathered from the document, is that the building should be delivered before February, 1998, it is but an agreement evidencing the terms agreed between the parties.

The learned Counsel tried to draw support from Dadi Reddy Sivanarayana Reddy Vs. Kasi Reddy Chinnamma, and V. Dharma Reddy and Ors. v. S.Hari Ram 2004 (5) ALD 600 for his contention that inasmuch as a sale deed was already executed and registered the document in question serves no purpose and hence is not liable to any stamp duty or penalty.

Since the point for consideration in Dadi Reddy Sivanarayana Reddy''s case (3 supra) relates to interpretation of a document being an agreement of sale or a sale deed, requiring registration for its being taken into consideration, that decision is of little help to decide this case.

It is no doubt true in V. Dharma Reddy''s case (4 supra) the learned Judge held that after execution of the sale deed the agreement preceding it cannot be treated as an ''instrument'' for the purpose of the Stamp Act. The learned Judge''s attention, obviously, was not drawn to Section 35 of the Stamp Act, which mandates "No instrument chargeable with duty shall be admitted in evidence for any purpose....

Section 2(14) of the Stamp Act defines instrument as a ''document by which any right or liability is or purports to be created, transferred, limited, extended, extinguished or recorded''. The document in question does create a liability between the parties.

4. It is well known that the purpose of the Stamp Act is to impose stamp duty on the instruments as they stand. Its intendment is not to impose stamp duty on the transaction covered by the instruments.

So, question whether the intended transaction is completed or not is not necessary to decide whether a document is liable to stamp duty or not. So, the said decision is not of help in deciding this revision. Because, when stamp duty payable is not paid on an instrument, it cannot be received in evidence in view of Section 35 of the Stamp Act.

Hence, the Civil Revision Petition is dismissed. No order as to costs.

