THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

CIVIL REVISION PETITION No.2184 of 2013

Date:19.07.2013

Between:

Chelikani Krishna Rao and another.

..... Petitioners.

AND

The Sub_Registrar,
Rajam, Srikakulam District.

.....Respondent.

The Court made the following :

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

CIVIL REVISION PETITION No.2184 of 2013

ORDER:

This revision petition is filed against the order dated 19-08-2011 passed by the Senior Civil Judge, Rajam in CMA No.1 of 2010, wherein it was held that the appeal filed by the petitioners under Section 47-A (4) of the Indian Stamp Act is not maintainable.

2.   The necessary facts for disposal of this revision are:-

It is the case of the revision petitioners that they presented a partition deed before the Sub-Registrar, Rajam, Srikakulam District, wherein it is averred that they divided the properties into 'A' & 'B' schedule properties. 'A' Schedule properties worth Rs.21,98,000/- fell to the share of Chelikani Krishnarao and 'B' Schedule property i.e.., cash of Rs.2,50,000/- fell to the share of Chelikani Pardhasarathirao and the said properties were devolved on them by inheritance, after the death of their father. The Sub-Registrar, Rajam issued the proceedings, dated 21.10.2009 requesting the petitioners to pay the deficit stamp duty of Rs.21,980/- as the document is pending with them for registration.

The 1st revision petitioner submitted a letter to the Sub-Registrar, Rajam that they want to take back the document No.P-74/09 due to their problems and the same may be returned by canceling the order to pay the deficit stamp duty. Then the revision petitioner No.1 submitted a letter to the Sub-Registrar, Rajam to return the document to rectify the manner and style of the language used in the document and for representation. As the request was not considered, the revision petitioners filed an appeal under Section 47-A (4) of the Indian Stamp Act (for short 'the Act') before the Senior Civil Judge, Rajam. The same was dismissed by an order dated 19-08-2011 holding that the appeal is not maintainable against which the present

revision petition is filed.

3.   Heard the learned counsel for the petitioners and learned Government Pleader for the respondent.

4.   The learned counsel for the revision petitioners contended that though they have presented the partition deed for registration before the Sub-Registrar, Rajam, they submitted a letter stating that they want to take back the document, but instead of returning the document, the Sub-Registrar issued notice vide No.P-74/2009, dated 13-11-2009, for payment of deficit stamp duty of Rs.21,980/-. It is also contended that without referring the matter to the District Collector under Section 47-A (1) of the Act, the Sub-Registrar straight away issued the proceedings for payment of the deficit stamp duty. He also contended that it is only a partition deed but not a family settlement as alleged by the Sub-Registrar. At any rate, he submits that when once the letter was submitted for taking back the document, the Sub-Registrar cannot insist for payment of deficit stamp duty. He placed reliance on the Judgment of this Court in **PRAJAY ENGINEERS SYNDICATE LIMITED, REP.BY IT'S DIRECTOR (MARKETING), Mr. SUMIT SEN, HYDERABAD vs. DISTRICT REGISTRAR AND COLLECTOR UNDER THE INDIAN STAMP ACT, RANGA REDDY (EAST) REGISTRATION**

DISTRICT AND OTHERS[1], wherein it is held that the document has to be returned when the parties do not insist for registration of the document.

5.   In the present case, no doubt the Sub-Registrar issued notice for payment of deficit stamp duty without referring the matter to the District Collector, but it is not clear from the order whether the revision petitioners have paid 50% of the deficit stamp duty for referring the matter under Section 47-A of the Act. Anyhow, now the present dispute is only for returning the document, as the revision petitioners are not insisting for registration of the document. I have gone through the order of the Appellate Authority, though the Appellate Authority has gone into the merits of the case whether the document is only a Partition Deed or it is a family settlement, which is not necessary since it is held that the appeal itself is not maintainable as the impugned order in the appeal was not passed either under sub-Section (2) or sub-Section (3) of Section 47-A of the Act.

6.   In the present case, it is only notice issued by the Sub-Registrar to pay the deficit stamp duty.
Section 47 A of the Act as such the Court below rightly came to conclusion that the appeal is not maintainable.

7.   In view of the above fact, I do not find any error in the order passed by the Appellate Court holding that the CMA

is not maintainable. It is no doubt true that in the Judgment relied on by the learned counsel for the revision petitioners in **District Registrar and Collector's case (Supra)** it is held in Para No.6 reads as follows:

> "An exercise under Section 47-A of the Act can be undertaken only when a party insists on a document being registered and the registering authority takes the views that the proper stamp duty and registration fee are not paid. In case the party, that presented the document give up the idea of getting the document registered, the registering authority or the Registrar cannot insist on payment of the amount found to be deficit."

8.   Since the present revision is filed only against the order passed by the Appellate Authority holding that the appeal is not maintainable, such a direction cannot be given in the revision.

9.   Accordingly, this Civil Revision Petition is also not maintainable on the same ground.   However, the revision petitioners are entitled to seek appropriate remedy available under law for return of the document basing on the Judgment relied on by the revision petitioners.

10.   Subject to the above, the Civil Revision Petition is dismissed.   As a sequel, miscellaneous petitions, if any pending in this Civil Revision Petition, shall stand dismissed. No costs.

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JUSTICE A. RAJASHEKER REDDY

Date:19.07.2013.
       mrb

[1] 2012 (3) ALT 639