

Writ Petition No.19165/12.

30.11.2012

Shri A.K. Singh, learned counsel for the petitioner.

Shri Lalit Joglekar, learned P.L. for respondent no.2- State.

He is heard on the question of admission.

The petitioner-plaintiff has filed this petition under Article 227 of the Constitution of India for quashment of the order dated 8.10.2012 (Annexure-P-7) passed by IIInd Civil Judge Class-II Waidhan, District Singrauli in Civil Original Suit No. 52-A/2010, whereby allowing the application of the respondents/defendants filed under Section 35 of the Stamp Act, their unregistered deed dated 15.6.1964 has been impounded and directed to sent to the Stamp Collector to assess the stamp with duty penalty on such document, to pay the same by the private defendants –respondents.

In the course of arguments on admission on making query from the counsel what error has been committed by the trial Court in impounding and sending the impugned document to the Stamp Collector by allowing the aforesaid application to assess the stamp duty along with duty penalty, on which counsel submits that such document may affect their right at trial and in such premises, the impugned order is not sustainable. In continuation he said that, in case this petition is dismissed, then a liberty to raise such objection before the trial Court at appropriate stage of trial regarding admissibility of such document be given to the petitioner because earlier such document was filed before the authority but was not impounded so subsequent proceedings of impounding does not give any right to the respondents to prove such document.

Keeping in view the arguments advanced by the counsel, I have carefully gone through the papers placed on record along with impugned order. It is undisputed fact that the respondents/defendants

have filed the unregistered deed dated 15.6.1964, which is also not properly stamped and in such premises, the impugned application was filed on behalf of the respondents to get the document impounded and to pay its stamp duty along with the penalty. In the available scenario, the trial Court has not committed any error in passing the impugned order directing to send the aforesaid document to the Stamp Collector for assessing the stamp duty along with penalty. Consequently, this petition being devoid of any merit is hereby dismissed. However, the petitioner is extended a liberty to raise his objection with respect of said document when the same is marked exhibit by the respondents at the time of recording their evidence or also in cross-examination of any of the witnesses. Pursuant to it, the trial Court is directed that on raising the aforesaid question regarding admissibility of document by the petitioner then such Court after hearing the parties shall decide the same in accordance with the procedure prescribed under the law.

Petition is dismissed but with aforesaid observations, liberty and directions.

**(U. C. Maheshwari)
Judge**

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