

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

**FRIDAY, THE THIRTY FIRST DAY OF MARCH
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

CIVIL REVISION PETITION NO: 876 OF 2023



Between:

1. B. Krishna Kumari, B/o B.Lokanadha Naidu, Aged about 41 years, MBT Road, Bangarupalem Village, Post and Mandal, Chittoor District, Andhra Pradesh.
2. M. Nagarajamma, (died)

...Petitioner/Respondent/Plaintiffs

AND

1. V.B. Sridevi, W/o V.J.Balaji, Aged about 25 years, R/o D.No.10-480, Seshapiran Street, Chittoor, Chittoor District.
2. V. T. Kiran, W/o. V.J.Thukaram, Aged about 50 years, R/o D.No.10-480, Seshapiran Street, Chittoor, Chittoor District.
3. V.M. Jamuna, W/o. V.J.Nagaraj, Aged about 36 years, R/o D.No.10-480, Seshapiran Street, Chittoor, Chittoor District.

...Respondents/Petitioners/Defendants

Petition under Article 227 of the Constitution of India, aggrieved by the Order dated 27.01.2023 in I.A.No.41 of 2021 in O.S.No.74 of 2012 on the file of the Additional Senior Civil Judge, Chittoor.

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in O.S.No.74 of 2012 on the file of the Additional Senior Civil Judge, Chittoor.

Counsel for the Petitioner: SRI. K RAGHU VEER

Counsel for the Respondents: NO REPRESENTATION

The Court made the following ORDER:

THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI**C.R.P.No.876 of 2023****ORDER:**

Aggrieved by the orders dated 27.01.2023 passed in I.A.No. 41 of 2021 in O.S.No.74 of 2012 on the file of the Court of Additional Senior Civil Judge, Chittoor, the present revision is filed.

2. The petitioners are the plaintiffs and the respondents are the defendants. The petitioners filed a suit vide O.S.No.74 of 2012 on the file of the Court of Additional Senior Civil Judge, Chittoor filed for declaration of right and title and for grant of permanent injunction over the suit schedule property. In the said suit, the respondents herein, who are defendants filed an application vide I.A.No. 41 of 2021 under Section 151 of C.P.C praying the Court to refer the original unregistered Sale Deed dated 06.06.1981 executed by M. Kuppamma in favour of her son M. Gangaiah Naidu for impounding stamp duty penalty to the District Registrar, Chittoor. The said application was opposed by the petitioners/ plaintiffs by filing counter. The court below allowed the same. Aggrieved by the order passed by the trial court, the present C.R.P is filed.

3. Heard Mr. K.Raghuveer, learned counsel for the petitioners.

4. Learned counsel for the petitioners contended that the court below has failed to give reasons while allowing the application. The court below while allowing the said application and the reasons given therefor are not proper and justifiable. The document, which pertains to the year 1981 is sent to the District Registrar for impounding stamp duty and penalty, great prejudice will be caused to the petitioners. Such contention has not been dealt in proper perspective by the court below. If such order is continued, great prejudice will be caused to the petitioner and also amount to miscarriage of justice. Accordingly the petitioners filed C.R.P, prays to allow the same.

5. Perused the record.

6. The suit in O.S.No. 74 of 2012 has been filed by the petitioners/ plaintiffs for declaration of right, title and for grant of permanent injunction. In the said suit, an application in I.A.No.41 of 2021 has been filed to refer the document dated 06.06.1981 for impounding stamp duty and penalty to the District Registrar, Chittoor. The court below allowed the said application on the ground that the sale deed is liable for collection of stamp duty and penalty. The said document executed by one Smt. Kuppanma in favour of M. Gangaiah Naidu, which was handed over to them by their vendor, which is not properly stamped, as such, prayed the court below to refer the document to the concerned authorities for

impounding stamp duty and penalty. The said application was opposed by the plaintiffs by filing counter and after hearing both sides, the court below has allowed the said application on the ground that under Section 17 of Registration Act, a sale deed is compulsory registerable document and an unregistered sale deed cannot be admitted in the evidence without paying stamp duty and penalty and to give an opportunity to the petitioners to establish their case in the interest of justice.

7. In **"Government of Andhra Pradesh and Others Vs. P.**

Laxmi Devi"¹ wherein the Hon'ble Apex Court held as follows:

"16. A perusal of the said provision shows that when a document is produced (or comes in the performance of his functions) before a person who is authorised to receive evidence and a person who is in charge of a public office (except a police officer) before whom any instrument chargeable with duty is produced or comes in the performance of his functions, it is the duty of such person before whom the said instrument is produced to impound the document if it is not duly stamped. The use of the word shall in Section 33(1) shows that there is no discretion in the authority mentioned in Section 33(1) to impound a document or not to do so. In our opinion, the word shall in Section 33(1) does not mean may but means shall. In other words; it is mandatory to impound a document produced before him or which comes before him in the performance of his functions. Hence the view taken by the High Court that the document can be returned if the party does not want to get it stamped is not correct".

19. It is well settled that stamp duty is a tax, and hardship is not relevant in construing taxing statutes which are to be construed strictly. As often said, there is no equity in a tax

¹ 2008(4) SCC 720

vide CIT v. V. MR.P.Firm Muarz. If the words used in a taxing statute are clear, one cannot try to find out the intention and the object of the statute. Hence the High Court fell in error in trying to go by the supposed object and intendment of the Stamp Act, and by seeking to find out the hardship which will be caused to a party by the impugned amendment of 1998."

Similarly in "**Parchuri Sireesha and Another Vs. Challapalli Jalaja**"² wherein the learned Single Judge of this Court held as follows:

"12. In the light of the settled legal position and the duty that is cast upon the learned Judge of the trial Court, the learned Judge is obliged nay duty bound to impound (seize/take possession of) the document and collect the deficit stamp duty & penalty as per the provisions of the Act, when the document is admittedly not duly stamped, and see that no loss of revenue is caused to the exchequer of the State Government. Therefore, turning a blind eye to the statutory mandate and dismissing of the petition of the defendants by the trial Court on the ground that no purpose would be served by collection of deficit stamp duty & penalty on the gift deed as it is unregistered, though compulsorily registerable, is erroneous as any document brought before a Court should comply with the requirement of Section 35 of the Indian Stamp Act and the Court is duty bound to impound and collect deficit stamp duty & penalty, if any such document is found to be not duly stamped. In that view of the matter, this Court finds that the trial Court committed a grave error in refusing the request of the defendants to pass orders to collect stamp duty and penalty on the subject gift deed".

8. It is settled principles of law that the document if at all is properly not stamped, a duty is cast upon the Court to send the

² 2020(1) ALD 162

same to the concerned authorities for impounding stamp duty penalty. The reasons given by the court below is proper and justifiable and this Court needs no interference against the order of the court below. By taking into consideration the judgments referred supra, the revision petition is liable to be dismissed.

9. Accordingly, the C.R.P is dismissed. There shall be no order as to costs.

As a sequel, miscellaneous applications pending, if any, shall also stand closed.

//TRUE COPY//

SD/- M PADMALATHA
ASSISTANT REGISTRAR

em
for SECTION OFFICER

To,

1. The Additional Senior Civil Judge, Chittoor, Chittoor District.
2. One CC to Sri K Raghu Veer, Advocate [OPUC]
3. Two CD Copies

Skm
sree

Bhargava

HIGH COURT

DATED:31/03/2023



ORDER

CRP.No.876 of 2023

*4-copies
P.B.K
11/8/2023*

**DISMISSING THE CRP
WITHOUT COSTS**