



**IN THE HIGH COURT OF ANDHRA
PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3460]

MONDAY ,THE FIRST DAY OF JULY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

CIVIL REVISION PETITION NO: 3559/2012

Between:

Mohammed Maqbul Basha And 4 Others and ...**PETITIONER(S)**
Others

AND

Shaik Taherunnisa And Anotehr and Others ...**RESPONDENT(S)**

Counsel for the Petitioner(S):

1.SAI GANGADHAR CHAMARTY

Counsel for the Respondent(S):

1.SUBHANI S M

The Court made the following:

HON'BLE SRI JUSTICE NYAPATHY VIJAY**C.R.P.No.3559 of 2012****ORDER:**

The present revision is filed against the order dated 10.07.2012 in I.A.No.122 of 2012 in O.S.No.89 of 2009 passed by the Principal Junior Civil Judge, Vijayawada.

2. Petitioners are the plaintiffs. An application under section 38 (2) of Indian Stamp Act, 1989 was filed to send the document for impounding of stamp duty on the unregistered partition list dated 24.04.1993. This application was opposed by the respondents on the ground that even if stamp duty is paid, the document cannot be marked in evidence for want of registration. The trial Court after considering the rival submissions rejected the petition by holding that even if the document is sent for impounding, the same is of no consequence since the document requires registration. Hence, the present revision.

3. Heard Sri Sai Gangadhar Chamarthy, learned counsel for the petitioners and Sri Subhani S.M., learned counsel for the respondents.

4. A party to a suit, if it wants to impound an insufficiently stamped document in evidence, the Court shall send the

document for collection of deficit stamp duty from the District Collector. Whether the document can or cannot be looked into in evidence after payment of stamp duty is altogether another aspect.

5. However, at the stage of sending the document for collection of deficit stamp duty, the reasoning of the trial Court that since the recitals in the document cannot be looked into even after payment of stamp duty is unwarranted. If the trial Court still is of the opinion that recitals in the document cannot be looked into even after payment of stamp duty and marking the same in evidence, the aggrieved party can appeal to higher Court with regard to the correctness. However, if the document is not even marked in evidence, the aggrieved party does not have any scope to urge the correctness of the reasoning of the trial Court in appeal.

6. The order of the trial Court is therefore liable to be interfered with and is set-aside. The civil revision is allowed. No order as to costs. As a sequel, the miscellaneous petitions if any shall stand dismissed.

NYAPATHY VIJAY,J

Date: .07.2024
KLP