

Uma Devi and Another Vs. Shaik Hussaln and Another

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Court : Andhra Pradesh

Decided On : Nov-20-1998

Reported in : 1999(1)ALD191; 1999(1)ALT136

Judge : C.V.N. Sastri, J.

Acts : [Registration Act, 1908](#) - Sections 17 and 18

Appeal No. : CRP No. 5141 of 1997

Appellant : Uma Devi and Another

Respondent : Shaik Hussaln and Another

Advocate for Def. : Mr. V. Tulasi Reddy, Adv.

Advocate for Pet/Ap. : Mr. L. Narasimha Reddy, Adv.

Judgement :

ORDER

1. Heard the learned Counsel on both sides.

2. The question raised in this Civil Revision Petition relates to the admissibility of a document dated 6-6-1984 which is styled as (relinquishment deed) in evidence. The facts leading to the revision may be briefly stated:

3. The petitioners herein are the defendants in OS No.66 of 1992 on the file of the Court of the District Munsif, Medchal, Rangareddy District. The said suit is filed by the first respondent herein for declaration of title and for recovery of possession of the suit schedule property consisting of about 473 sq yards of site. The said property originally belonged to Asha Ramanujam, the husband of the first petitioner and the father of the second petitioner. He sold the property to the first respondent herein under two sale-deeds dated 30-7-1979 and 4-11-1981. However, some disputes arose between the parties in regard to the same. Thereupon the first respondent filed OS.47 of 1983 against Ramanujam for declaration of title and injunction. During the pendency of that suit, there was a compromise or settlement of the dispute on 6-6-1984. As per the said compromise, Ramanujam is stated to have paid a sum of Rs.36,300/- to the first respondent in consideration of which the first respondent relinquished all his rights in the property and agreed to withdraw the suit. As per the said settlement the suit OS No.47 of 1983 was not pursued and the same was dismissed for default on 15-4-1985. The alleged settlement is stated to have been recorded in a document dated 6-6-1984 allegedly executed by the first respondent on a stamp paper. During the course of the trial of the present suit, the petitioners sought to tender the document dated 6-6-1984 in evidence. On an objection raised by the first respondent with regard to its admissibility, the lower Court, by the impugned order dated 3-12-1997, held that the said document is a relinquishment deed in respect of immoveable property worth more than Rs.100/- which is compulsorily registerable and the document is not admissible in evidence as it is not registered. Hence this revision.

4. The learned Counsel for the petitioners has contended that the document cannot be treated as a relinquishment deed. It is only an agreement or acknowledgment evidencing the compromise arrived at between the parties, that the document by itself does not create or extinguish rights in the property and as such it is not compulsorily registerable. It is also pointed out that there is a specific recital in the document to the effect that in case Ramanujam desires to have a registered document, the first respondent shall execute and register proper conveyance as and when demanded by Ramanujam. The learned Counsel for the petitioners has also made an alternative submission that the document in question does not

attract Section 17 of the Indian Registration Act but it falls under Section 18 and as such registration is only optional but not compulsory.

5. On the other hand, the learned Counsel appearing for the first respondent has contended that there are clear recitals in the document to the effect that a sum of Rs.36,300/- was paid as consideration, that possession of the property was also delivered and that the executant has given up all his rights in the property and as such the document is a deed of relinquishment whereby the executant of the document purported to give up all his rights in the property and create rights in favour of Ramanujam. The learned Counsel for the first respondent, placing reliance on the judgment of this Court in *B. Ramathulasamma v. Yedem Masthan Reddy*, : 1998(5)ALD502 , contended that merely because the document contains a provision for execution of a registered deed in future, it cannot alter or change the nature of the document and it cannot be treated as an agreement.

6. It is well settled that the question whether a document is admissible in evidence or not primarily depends upon the nature and the contents of the document and also the facts and circumstances of each case. The nomenclature given to the document is not decisive. The primary question to be considered is whether the document by itself creates or extinguishes rights in immovable property worth more than Rs.100/-. In ascertaining the true nature of the document, the contextual facts also have to be borne in mind.

7. Admittedly the property in question originally belonged to Ramanujam and the same was sold to the first respondent under two registered sale-deeds executed in the years 1979 and 1981. But as some disputes arose between the parties, the first respondent filed a suit against Ramanujam for declaration of title and injunction. During the pendency of the suit, the dispute was settled by the intervention of some mediators. As per the decision of the mediators, Ramanujam had to pay besides the sale consideration of Rs.6,300/- under the two sale-deeds executed by him, a further sum of Rs.30,000/- to the first respondent who on receipt of the same, gave up all his claims to the property and abandoned the suit filed by him. It is in that context that the document dated 6-6-1994 came to be allegedly executed. It cannot, therefore, be said that for the first time any rights in

the property were sought to be created by and under the document dated 6-6-1984. The document merely records the terms of the settlement arrived at between the parties through the intervention of the mediators and it acknowledges the receipt of Rs.36,300/- by the first respondent. The document specifically recites that hereafter the executant of the document shall not have any concern with the land which is the subject matter of the suit and that Ramanujam shall be in possession and enjoyment of the suit property along with the property on the eastern side which is already in his possession and it also recites that hereafter Ramamijam shall be the absolute owner of the entire property and that the executant of the document shall not have any rights in the property. There is a further recital that in case Ramanujam desires to have a registered deed, the executant shall execute and register a proper deed whenever demanded.

8. Having regard to all these circumstances and the recitals in the document, I am of the view that this document cannot be construed as a relinquishment deed whereunder rights in immoveable property are extinguished or created for the first time. I am inclined to agree with the submission of the learned Counsel for the petitioners that the document falls under Section 18(b) of the Registration Act and as such registration is not compulsory but it is only optional.

9. For the aforesaid reasons, the impugned order is set aside and the CRP is allowed. The question of truth and validity of the document is, however, a matter to be decided in the suit. No costs.