

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(PD) NO.212 OF 2015  
AND M.P.NO.1 OF 2015

P.Senthilnathan

... Petitioner

Vs.

1.Periyasamy  
2.Premakumari  
3.Balaviswanathan  
4.Chandrasekaran

... Respondents

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 24.11.2014 made in O.S.No.82 of 2007 on the file of the I Additional Sub Court, Salem.

For Petitioner : Mr.T.Murugamanickam  
For Respondents : Mr.P.Jagadeesan

**ORDER**

This Civil Revision Petition is directed against the order dated 24.11.2014 passed in O.S.No.82 of 2007 by the learned First Additional Sub Judge, Salem.

2.The petitioner is the plaintiff in the suit in O.S.No.82 of 2007, which was filed for partition claiming 1/3<sup>rd</sup> share in the suit property. The suit was resisted by the respondents by filing a written statement dated 03.01.2008. After conclusion of the trial, when the suit was posted for arguments, the petitioner filed an application in I.A.No.683 of 2014 to receive additional evidence. In the application, the petitioner has stated that the document was already marked as Ex.B1 in O.S.No.12 of 2010 and it was executed only after filing of the suit. The petitioner has further averred that the documents are important to prove his case. The application was opposed by the respondents stating that there was no pleading and the documents are unregistered and unstamped documents and hence, it cannot be relied on for any purpose. The Trial Court, dismissed the application and passed order in the suit on 24.11.2014.

3.Challenging the order passed in the suit, the present Civil Revision Petition is filed.

4.Heard Mr.T.Murugamanickam, learned counsel for the petitioner and Mr.P.Jagadeesan, learned counsel for the respondents.

5.It is not in dispute that the suit was filed in the year 2007 and the evidence of both the plaintiff and the defendants was already over. When the suit was posted for arguments, the petitioner has filed the application to mark the xerox copy of the alleged compromise deed dated 04.11.2007 and the final decree passed in I.A.No.1148 of 1970 dated 16.11.1970. Since the respondents did not have any objection to mark the document dated 16.11.1970, the Trial Court permitted the petitioner to mark the document and since there was no pleading with regard to the alleged compromise and family arrangement dated 04.11.2007, the Trial Court dismissed the application holding that:-

*“1.the document dated 4/11/2007 is a xerox copy of a xerox.*

*2.the original is neither misplaced nor missed and admittedly available with the 1<sup>st</sup> defendant.*

*3.the document is styled as Family Arrangement and there were a division and partition and allotment of immovable properties among the family members, their value is admittedly several lakhs written in a Rs.20/- NJS Papers and unregistered.*

*4.the defendant has alleged that he was threatened and signed in it under coercion;*

*5.therefore, it cannot be marked either under Sec 63 or 65 of the Indian Evidence Act, as the same is hit by Indian Stamp and Registration Act, besides other reasons stated above.”*

6.Hence, I do not find any illegality or irregularity in the order impugned in this Civil Revision Petition. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**03.02.2015**

Index : Yes/No  
Internet : Yes/No  
TK

To

The First Additional Sub Court  
Salem.

K.KALYANASUNDARAM, J.

TK

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