

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAIWAMY

CRP (PD) No.1653 of 2015
and M.P.No.1 of 2015

1. Selvaraj

2. Rev.K.A.Daniel

.. Petitioners

versus

Sampooranam Ammal

..Respondent

Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 13.02.2014 made in I.A.No.472 of 2012 in O.S.No.338 of 2010 on the file of I Additional District Munsif Court at Vridhachalam.

For Petitioners : Mr.T.L.Thirumalaisamy

O R D E R

Challenging the fair and decreetal order passed in I.A.No.472 of 2012 in O.S.No.338 of 2010 on the file of the I Additional District Munsif Court, Vridhachalam, the defendants have filed the above said Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.338 of 2010 for permanent injunction alternatively for recovery of possession. Along with plaint, the plaintiff produced a photo copy of the sale deed dated 11.08.1998 as document No.3.

3. The defendants filed their Written Statement and are contesting the suit. Thereafter, the plaintiff filed an application in I.A.No.472 of 2012 to direct the Revenue Divisional Officer, Vridhachalam to assess the property and fix the stamp duty payable on the said document by impounding the sale deed

dated 11.08.1998. Since the document is an unregistered sale deed and with insufficient stamp, the plaintiff has come forward to file the said application. In the affidavit filed in support of the application, the plaintiff also stated that she is prepared to pay the penalty for non paying the appropriate stamp duty.

4. The Trial Court, taking into consideration the case of both parties allowed the application finding that by paying the stamp duty and the penalty for the sale deed dated 11.08.1998, the defendants are not going to be prejudiced for the reason that the burden of proof lies only on the plaintiff to establish the truth, genuineness and relevancy of the document at the time of trial.

5. Admittedly, the said document is an unregistered document. The finding of the Trial Court is that that by impounding the document and by directing the plaintiff to pay the proper stamp duty together with penalty fixed by the Revenue Divisional Officer, will not vitiate the proof of the said document. It is needless to say that the burden of proof with regard to the truth, genuineness and relevancy of the said document lies on the plaintiff. In these circumstances, the Trial Court has rightly allowed the application. I do not find any error or irregularity in the order passed by the trial Court.

The Civil Revision Petition is devoid of merits and hence the same is dismissed. No costs. Connected miscellaneous petition is also dismissed.

22.04.2015

rg/srn

To

The I Additional District Munsif, Virudhachalam.

M.DURAIWAMY,J

rg/srn

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