



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.03.2015

CORAM:

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

C.R.P. (MD) .No.676 of 2015 (PD)

WEB COPY

Central Bank of India
Through its Branch Manager,
Ambasamudram
Tirunelveli District. ... Revision Petitioner

vs.

1.Mr.E.Ganesan
2.Mr.A.Kannan ... Respondents

PRAYER: This Civil Revision Petition filed under Article 227 of the Constitution of India, to allow this civil revision petition and thereby set aside the Return Order dated 12.03.2015 made in unregistered O.S.No... of 2015 on the file of the District Munsif Court, Ambasamudram to direct the District Munsif Court, Ambasamudram to take the original suit on file.

For Petitioner : Mr.B.Rajesh Saravanan

O R D E R

The plaintiff is the Bank, who has filed recovery of money based on equitable mortgage on the file of the Principal District Munsif Court, Ambasamudram and the same was returned by the Registry stating that there is no equitable mortgage created and no title deed has been deposited and only standing crops have been hypothecated. Hence, the suit on mortgage for sale of immovable property is not maintainable.

2.The learned counsel for the petitioner/bank contends that the petitioner already produced the original title deed of the defendant dated 13.11.1975 along with plaint and the compulsory registration of the equitable mortgage came to be effected only in the year 2012 and this mortgage was prior to that. Hence, it is only a mortgage by depositing of title deeds. However, it is only the plaint averments which has to be gone into and the dispute can be resolved only after framing the issues. The plaintiff can be non-suited after trial, in the event of not establishing his case. The suit cannot be returned at the threshold itself. Hence, the District Munsif Court is directed to number the plaint and take it on file.



With the above direction, the civil revision petition is disposed of. No costs.

WEB COPY

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub-Assistant Registrar

To

1.The District Munsif Court,
Ambasamudram.

2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai

+One cc to Mr.B.Rajesh Saravanan, Advocate, SR.No.16076

Ns

RL/4 c- 15/4/2015

C.R.P. (MD) .No.676 of 2015 (PD)

31.03.2015