

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2016

CORAM

The Hon'ble Mr.Justice K.K.Sasidharan

C.R.P.(PD)No.210 of 2014

and

M.P.No.1 of 2014

1. D.Ammakannu
2. Mrs.R.Annapoorani
3. S.Jayalakshmi
4. Mrs.Rathinam
5. Mrs.Ruckmani

...Petitioners

Vs.

1. G.Subbarayan
2. R.Balamurugan

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order, dated 11.09.2013, in I.A.No.440 of 2013, in O.S.No.498 of 2011, on the file of I Additional District Court, Coimbatore.

For Petitioners : Mr.C.R.Prasannan

For Respondents : Mr.R.Marudhachalamurthy

ORDER

The petitioners filed a Suit for partition in O.S.No.498 of 2011, before I Additional District Court, Coimbatore. In the said Suit, the respondents filed an Application in I.A.No.440 of 2013, to receive an unregistered, insufficiently stamped Family Arrangement, dated 29.11.1961. The learned trial Judge directed the respondents to pay the appropriate stamp duty and get the document adjudicated. The said order is under challenge in this Civil Revision Petition.

2. The learned counsel appearing on behalf of the petitioners contended that the trial Court was not correct in sending the document for adjudication. According to the learned counsel, the document is not admissible in evidence, and as such, the trial Court was not correct in directing the respondents to pay the stamp duty for marking the documents.

3. The learned counsel for the respondents justified the impugned order.

4. The trial Court, by order, dated 11.09.2013, directed adjudication without prejudice to the contentions taken by the petitioners herein that the document is inadmissible in evidence. Even after adjudication, it is for the trial Court to decide as to whether the document is admissible in evidence. The stage has not arisen so far to decide the said issue. The learned trial Judge simply directed the respondents to pay the differential stamp duty, and in case of their failure to send the document to the concerned Authority for adjudication. The order does not contain any indication that immediately after adjudication, the Family Arrangement would be received in evidence. The apprehension raised by the petitioners that the document would be received in evidence immediately after adjudication, appears to be incorrect, in view of the observation made by the learned trial Judge that the admissibility will be decided after paying the deficit stamp duty.

5. The learned trial Judge directed the respondents to pay the differential stamp duty and get the document adjudicated. That does not mean that the Court has decided its admissibility or evidentiary value. I am, therefore, of the view that the trial Court was justified in sending the

document for adjudication. However, I make it clear that even after adjudication, the trial Court must arrive at a decision whether the document, dated 29.11.1961, is admissible in evidence, besides its evidentiary value. The decision should be taken, when there is a request made by the respondents to mark the document in question.

6. The learned trial Judge is directed to dispose of the Civil Suit, in O.S.No.498 of 2011, as expeditiously as possible, and in any case, within six months from the date of receipt of a copy of this order.

7. The Civil Revision Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

24.11.2016

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Index : Yes/No

Internet ; Yes/No

To

The I Additional District Court, Coimbatore.

K.K.Sasidharan,J.,

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