IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.09.2016

CORAM

THE HON'BLE MR. JUSTICE T.MATHIVANAN

C.R.P (PD) No.1442 of 2011
&
M.P.No.1 of 2011

P.Velmurugan ... Petitioner / Plaintiff

Vs.

Rajeswari ... Respondent/Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 06.09.2010 passed in O.S.No.617 of 2005 on the file of the Principal District Munsif Court, Cuddalore .

For Petitioners : Mr.R.Gururaj

For Respondent : No appearance

ORDER

The order dated 06.09.2010 and made in the suit in O.S.No.617 of 2005 on the file of the learned Principal District Munsif, Cuddalore is under challenge in this memorandum of civil revision. The revision petitioner herein is the plaintiff in the suit, whereas the respondent is the defendant.

2. The revision petitioner has filed the above suit as against the respondent seeking the relief of permanent injunction. The suit was contested by the respondent by filling her written statement. After formulating necessary issues, the trial was commenced.

3. The process of recording of evidence on the side of the revision petitioner/plaintiff was completed. Along with the written statement, certain documents were filed and subsequently marked as Exs.B2 to B6 on behalf of the defendant. Document No.2 is a Mortgage Deed dated 01.02.1994. Document No.4 is a Sale Deed dated 01.04.2004. Document No.5 is said to be a receipt for having paid a sum of Rs.22,500/- and received by one Ramesh from the defendant. These three documents were objected by the learned counsel for the revision petitioner/plaintiff alleging that those documents were required stamp duty penalty.

4. In this connection, the learned District Munsif, in the impugned order dated 06.09.2010, has observed that with regard to documents 2 and 4 are concerned, they are unregistered and unstamped documents, which according to law, is not admissible in evidence and cannot be looked into even for collateral purpose. The learned District Munsif has also observed that the plaintiff's counsel had rightly objected those documents which required stamp duty penalty. Insofar as Document No.5 is concerned, according to the learned District Munsif, it is not a receipt as objected by the

revision petitioner /plaintiff's counsel, but it is a document written in Panchayat which reveals that one Ramesh had unauthorisedly constructed a building in the land belonging to the respondent/defendant and she had made a complaint before the Panchayatdhars regarding the illegal act of the said Ramesh. As resolved in the said Panchayat, the said Ramesh was given Rs.22,500/- in respect of the construction put up by him in the respondent/defendant's land.

5. According to the District Munsif, it could not be considered as a receipt given to the respondent/defendant, but it is only an acknowledgement made by Ramesh before the Panchayat for his illegal act. Ultimately, the learned District Munsif has concluded that Document No.5 need not be impounded for collecting Stamp Duty penalty whereas Document Nos.2 and 4 are to be impounded and to be sent for collecting stamp duty penalty. This order has been challenged in this revision by the revision petitioner/plaintiff.

6. This Court, through its Registry had ascertained over phone with the District Munsif Court, Cuddalore, as to whether the Document Nos.2 and 4 which were impounded were sent for collecting stamp duty penalty to the Revenue Authority. The Registry of this Court was able to receive a response from the other end saying that those documents are not sent to the Revenue Authority for collecting stamp duty penalty and still they are kept in

the Court.

7. Mr.R.Gururaj, has adverted to that since the 5th document had been executed for handing over of the immovable property viz., construction of the house in favour of the respondent, the respondent/defendant had paid a sum of Rs.22,500/- and the said amount of Rs.22,500/- being the consideration for handing over the construction, it must be duly stamped and registered.

8. This Court has perused Document No.5 from where it is revealed that one Ramesh, S/o.Sivaperuaml belonging to Kudikadu Village had put up a construction on the site belonging to the respondent/defendant and that the work was stopped in the halfway. On a complaint made by the respondent before the Village Panchayat, the said Ramesh was called and enquired by the Panchayatdhars. In the said Panchayat, the said Ramesh had agreed to hand over the construction to the respondent and ready to receive the construction expenses. Accordingly, the respondent had given a sum of Rs.22,500/- to the said Ramesh for the construction and subsequently she had taken over the possession of the construction along with her ground site.

9. As rightly concluded by the learned District Judge, this document cannot be construed as a Transfer Deed because the said construction seems

to have been put up by the said Ramesh on the house site of the respondent/defendant unauthorizedly. Therefore, on the complaint made by the respondent/defendant, the said Ramesh had agreed to handover the construction to the respondent for which he demanded the actual expenses which he had incurred for putting up the said construction.

10. Therefore, this Court finds that Document No.5 cannot be construed to be a Transfer Deed, but it is a receipt issued by the said Ramesh. The averments of the document itself would go to show that it is an acknowledgement and not a Transfer Deed. Therefore, it need not be impounded for collecting Stamp Duty Penalty.

Keeping in view of the above fact, the revision petition is liable to be dismissed. Accordingly, the revision petition is dismissed and the impugned order of the trial Court is confirmed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

28.09.2016

Index: Yes/No
Internet: Yes
gpa

T.MATHIVANAN.J.,

gpa

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