

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.2246 of 2016
and C.M.P.No.11645 of 2016

Lakshmi

... Petitioner

Vs.

1.Dhanapalan

2.The District Collector,
Collectorate, Salem.

3.The Revenue Divisional Officer,
Mettur Dam, Salem District.

4.The Tahsildar,
Taluk Office, Omalur Taluk,
Salem District.

5.P.Perumal

6.R.Maragatham

A.Rajalingam (Died)

7.Rajamani

8.Parasakthi

9.Kumar @ Ranjith Kumar

10.Ganesan

... Respondents

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the fair and decreetal order dated 01.02.2016 passed in R.E.A.No.16 of 2015 in R.E.A.No.24 of 2014 in R.E.P.No.2 of 2013 in O.S.No.228 of 2005 on the file of the District Munsif cum Judicial Magistrate, Omalur, Salem District.

For Petitioner : Mr.M.R.Jothimanian

ORDER

Challenging the order passed in R.E.A.No.16 of 2015 in R.E.A.No.24 of 2014 in R.E.P.No.2 of 2013 in O.S.No.228 of 2005 on the file of the District Munsif cum Judicial Magistrate, Omalur, Salem District, the 3rd party claimant has filed the above Civil Revision Petition.

2.Pursuant to the decree granted in O.S.No.228 of 2005, the 1st respondent/Decree Holder filed an Execution Petition in R.E.P.No.2 of 2013. In the said Execution Petition, the revision petitioner filed an application under Order 21 Rules 97 & 98 of the Code of Civil Procedure claiming right over the property.

3.During the pendency of the Execution Petition, the Decree Holder filed a Civil Revision Petition in C.R.P.(NPD).No.1756 of 2014 for early disposal of the Execution Petition. This Court, by order dated 06.06.2014,

directed the Executing Court to dispose of the Execution Petition in R.E.P.No.2 of 2013 on or before 31.08.2014. The application under Order 21 Rules 97 & 98 of the Code of Civil Procedure was filed by the revision petitioner in the year 2015. The respondent/Decree Holder filed his counter and contested the application. When the matter was posted for arguments, the revision petitioner filed an application in R.E.A.No.16 of 2015 to re-open the case for producing Sale Deed dated 26.10.2001.

4. On a perusal of the Sale Deed dated 26.10.2001, it could be seen that the said document is an un-registered and un-stamped document. Since the value of the property is more than Rs.100/-, under the Registration Act, the document should be mandatorily registered. But the document sought to be marked by the revision petitioner is un-stamped and un-registered, which cannot be relied upon by him before the Court of law. The Executing Court relying upon a judgment of the Hon'ble Supreme Court in ***C.A.No.7350 of 2008 [Avinash Kumar Chauhan Vs. Vijay Krishna Mishra]*** rejected the said document. If the petitioner wanted to file the document, he could have done so at the earliest point of time. The petitioner should not produce the document in piecemeal to substantiate his case. Recording all these aspects, the Executing Court has rightly dismissed the petition.

5.I do not find any error or irregularity in the order passed by the Executing Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
va

04.08.2016

To

The District Munsif cum
Judicial Magistrate,
Omalur, Salem District.

M.DURAIWAMY,J.
va

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