

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

C.R.P.PD.No.1934 of 2012

and

M.P.No.1 of 2012

Joseph

... Petitioner

- Vs -

1. Shree Kariyakkal

2. R.Latha

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India against the Fair and Decreetal Order dated 28.10.2011 and made in I.A.959 of 2011 in O.S.No.292 of 2009 on the file of the learned District Munsif, Tambaram.

For Petitioner	:	Mr.D.Ashok Kumar
For Respondents	:	Mr.S.Silambanan, Senior Counsel for Mr.A.Paramasivan

O R D E R

This memorandum of revision petition is directed against the fair and decreetal Order dated 28.10.2011 and made in I.A.959 of 2011 in O.S.No.292 of 2009 on the file of the Learned District Munsif, Tambaram.

2. The revision petitioner herein is the defendant in the suit whereas the respondents 1 and 2 are the plaintiffs.

3. It is manifested from the records that the respondents 1 and 2 have filed the above suit as against the revision petitioner seeking the relief of permanent injunction. This suit was resisted by the revision petitioner.

4. After formulating necessary issues the suit was posted for trial. The process of recording of evidences on the side of the plaintiff was commenced. After completion of the respondent's side evidence, this suit stood posted for recording of evidence on the side of the revision petitioner. It appears that the revision petitioner had filed his proof affidavit along with certain documents to support his case. Except an unregistered sale deed dated 18.06.1993 other documents were marked. The unregistered sale deed dated 18.06.1993 is concerned, the revision petitioner has stated in the affidavit filed in support of his petition that it is very vital and important document unless and until this document is allowed to be marked this would cause him irreparable loss.

5. After hearing both sides, the trial court had proceeded to dismiss the petition on the ground that since the document which is sought to be received, is an unregistered document it could not be received even for collateral purpose.

6. Challenging the correctness of the order, the present revision petition is filed by the defendant.

7. The learned counsel for the petitioner has submitted that even an unregistered document could be received at the time of trial only for collateral purpose and since the documents is an unregistered document it could not be rejected and that the learned Trial Judge had obviously proceeded to dismiss the petition without understanding the importance of the document.

8. On the other hand, Mr.S.Silambanan, learned Senior Counsel appearing for the respondents has submitted that even in several judicial pronouncements it was held that an unregistered document which is required to be registered under Section 17 of the Registration Act, could not be marked even for collateral purpose. In support of his contention, he has placed reliance upon the decision

reported in *D.Sivagnanam v. Thirugnanaprakasam and two others* (2010(3) CTC 873). In this case, the learned Single Judge of this Court has observed that:-

'Unstamped and unregistered documents not admissible in evidence and cannot be looked into even for collateral purpose.'

9. It is the settled principle of law that no reliance could be placed on the unregistered sale deed because this suit, as it appears from the plaint averments, seems to have been filed by the revision petitioner only for collateral purpose and the unregistered document could be received at the time of trial. Hence, the order of decree for permanent injunction is sought for.

10. Insofar as this suit is concerned, the question of title will not arise. The suit is filed for the relief of permanent injunction. As rightly addressed by the learned Senior counsel for the respondent, no reference is available in the written statement filed by the revision petitioner about the unregistered sale deed dated 18.06.1993. But, the trial judge has observed that 'Mere production of the document before the court, whether it is registered or unregistered, may not amount to taking the same in evidence as understood in law and there is further

to state that the documents, to take a shape of evidence and for finally marking documentary evidence, it should be within the proper form and since this document dated 18.06.1993, is an unregistered document, it could not be received and marked even for collateral purpose''. In this connection, he has observed in paragraph No.6 of his order saying that ''The unregistered document, which has been produced to prove the title of the vendor was rightly found to be inadmissible. In view of the mandatory requirement of Registration of the document u/s. 17(1)(b) of the Registration Act, this document cannot be received and even marked for collateral purpose under Section 49 of the Act''.

11. Keeping in view of the above fact, this Court finds that the impugned order does not suffer from any infirmity or illegality and this Civil Revision Petition is devoid of merits and the same is liable to be dismissed.

12. In the result, this Civil Revision Petition is dismissed and the impugned order is confirmed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

30.11.2016

Index: Yes / No

T.MATHIVANAN, J. ,

ssn

To

The District Munsif,
Tambaram.

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