

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.454 of 2016

and

C.M.P.No.2348 of 2016

1.E.Meganathan
2.Jagan Mohan

... Petitioners

vs.

M.Samraj

...Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against order and decretal order of the District Munsif, Tiruvallur dated 17.08.2015 made in I.A.No.2078 of 2014 in O.S.No.54 of 2009.

For Petitioners : Mr.S.Rajendrakumar
for M/s.Norton and Grant

ORDER

The arguments advanced by Mr.S.Rajendrakumar, learned counsel representing M/s.Norton and Grant, counsel on record for the petitioners are heard. The grounds of revision and the documents produced in the form of typed set of papers are also perused.

2. The petitioners are the defendants in O.S.No.54 of 2009 pending on the file of the District Munsif, Tiruvallur. The said suit was filed by the respondent herein for demarcation of the suit properties, declaration of title and injunction not to disturb his possession and enjoyment of the same. The

petitioners herein, who are the defendants in the suit, are contesting the suit on the basis of their claim that they had purchased the property from the father of the plaintiff. The suit is in the part-heard stage. At this stage, the petitioners herein/defendants filed an application in I.A.No.2078 of 2014 seeking an order permitting them to mark the document dated 30.04.2002 allegedly executed by the father of the respondent herein/plaintiff, as a documentary evidence on their side.

3. Admittedly, the said document is not a registered document. The document has been prepared in a ten rupees stamp paper and it has been titled as a letter written by V.M.Krishnan in favuor of the first petitioner herein. It is a well recognised principle of law that the title mentioned in the document is not the sole deciding factor of the nature of the document. The transaction made therein must be looked into to find out what is the nature of the document. In the document, which is sought to be marked on the side of the petitioners herein as a documentary evidence as exhibit, is no doubt titled as a letter. Except the title, the other portion of the document shows that it is only a sale deed of an immovable property, namely the suit property.

4. It is not in dispute that the value of the property as on the date of the document itself was more than 100 rupees. As such, the said document is one that requires registration under Section 17 of the Registration Act, 1908. Section 49 of the Registration Act, 1908 makes such unregistered documents inadmissible in law in proof of any right said to have been derived under the said document. However, the proviso provides two exceptions, which are as follows:

i) an unregistered sale deed can be used as evidence of the contract for sale of immovable property in a suit for specific performance; and

ii) it can be used for proof of any collateral transaction, which is not required under law to be registered.

The second exception is mostly misunderstood by projecting the same to be one for the use of an unregistered document for any collateral purpose. The term 'collateral purpose' is a nebulous term and the provision does not refer to collateral purpose. On the other hand, the provision refers to a 'collateral transaction' which is not required by law to be registered.

5. The attempt made by the petitioners to introduce the said document as a documentary evidence stating that it was sought to be used for a 'collateral purpose' was rightly countered by the opposite party and the learned trial Judge has also correctly chosen to dismiss the petition I.A.No.2078/2014 by order dated 17.08.2015, which is impugned in the present revision preferred under Article 227 of the Constitution of India.

6. It should also be noted that the petitioners filed an earlier application I.A.No.972/2013 for receiving the above said document itself in proof of their title to the suit property. The said application was also dismissed. Only after the dismissal of the said application, I.A.No.2078/2014 came to be filed. The learned counsel for the petitioners, during the course of hearing, fairly brought the above said fact to the notice of this court. In view of the fact that an earlier attempt to get the disputed document introduced as an exhibit failed and the second attempt has been made by filing I.A.No.2078/2014, will make it clear that the second attempt is also vexatious. The learned trial Judge

has not committed any error in dismissing the application. There is no merit in the revision and the same does not even merit admission.

In the result, the civil revision petition is dismissed. However, there shall be no order as to cost. Consequently, the connected civil miscellaneous petition is closed.

17.02.2016

Index : Yes
Internet : Yes
asr

To
The District Munsif, Tiruvallur

P.R.SHIVAKUMAR, J.

asr/-

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