



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 15.12.2016  
CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

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C.R.P. (MD) No.2545 of 2016 (PD)

C.M.P. (MD) No.11970 of 2016

Fausiza S.Kabir,  
W/o.Dr.S.Kabir

..Petitioner/Respondent/Plaintiff

Vs.

The Secretary,  
Madurai Hosiery Industries Association,  
Madurai - 20.

...Respondent/Respondent/  
First Defendant

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order, dated 19.10.2016, made in I.A.No.592 of 2016 in O.S.No.343 of 2009, on the file of the District Munsif Court, Melur.

For Petitioner : Mr.A.Arumugam

### ORDER

This Civil Revision Petition has been filed against the fair and decretal order, dated 19.10.2016, made in I.A.No.592 of 2016 in O.S.No.343 of 2009, on the file of the District Munsif Court, Melur.

2. The petitioner is the plaintiff and the respondent is the first defendant in the suit in O.S.No.343 of 2009 on the file of the District Munsif Court, Melur.

### 3. Facts of the case:-

(i) The petitioner filed the suit for declaration that she is the owner of the suit property; for a direction to the third defendant to deliver vacant possession; and for mandatory injunction directing the defendants 1 to 3 to deliver the original sale deed of the suit property, dated 02.02.1994, registered as Document No.177/94 on the file of the Sub-Registrar, Tamaraipatti, Madurai.

(ii) The respondent/first defendant filed written statement on 03.05.2010 and opposed the suit.

(iii) After framing issues, the trial has commenced.

<https://hcservices.ecourts.gov.in/hcservice/> The respondent filed I.A.No.592 of 2016 seeking to receive the documents mentioned in the petition and permit him to mark those documents.



(v) The respondent stated that the documents mentioned in the petition are traced only now and therefore, it was not filed earlier and the same are necessary for deciding the issue in the suit.

(vi) The petitioner filed counter affidavit and opposed the same. The petitioner stated that all the documents are fabricated and concocted and the said documents are not related to the suit property and they are not necessary documents to decide the issue in the suit.

(vii) The learned District Munsif, Melur, considering the materials on record and the averments made in the affidavit and the counter affidavit, by order dated 19.10.2016, allowed the application holding that permitting the respondent to mark the documents will not amount to accepting the case of the respondent. The petitioner can object to marking documents, when they are produced by the witness and admissibility of the documents will be decided at the time of pronouncing judgment. The petitioner will be given an opportunity to examine the witness and argue the matter.

4. Against the said order dated 19.10.2016, the petitioner has come out with the present Civil Revision Petition.

5. The learned counsel for the petitioner submitted that the learned District Munsif failed to see that Rental Agreement is not properly stamped and not registered and the same cannot be allowed to be marked. As per Sections 35 and 36 of the Indian Stamp Act, 1899, it is not admissible in evidence. He further submitted that all the other documents filed by the respondent do not relate to the suit property. The Court held that objection with regard to sufficiency of the Stamp Duty paid by the party must be decided before marking of document. He also submitted that the learned District Munsif erred in holding that the petitioner can object to marking the document and cross-examine the witness and argue the matter. The objection of the petitioner will be considered at the time of delivery of the judgment.

6. In support of his submissions, the learned counsel for the petitioner relied on the judgment reported in **2000 (I) MLJ 198 [Sengappan Vs. Arumbatha Veda Vinayagar Temple and others]** and submitted that once a document has been admitted in evidence, it is not open either to the Trial Court or to a Court of appeal or revision to go behind that order. Such an order is not one of those judicial orders which are liable to be reviewed or revised by the same Court or a Court of superior jurisdiction.

7. The learned counsel for the petitioner also by relying on <https://hccservicescourts.in/126> and 27 of the judgment reported in **2001 (1) CTC 112 [A.C.Lakshmipathy and another Vs. A.M.Chakrapani Reddiar and five**



**others]** submitted that documents if required to be stamped, but not so stamped cannot be looked into for any purpose including collateral purpose.

8. Heard the learned counsel for the petitioner.

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9. The contention of the learned counsel for the petitioner is that all the documents sought to be marked do not relate to the suit property and all the documents are fabricated and concocted documents. The Rental Agreement is not properly stamped and it is not registered as it is for more than 11 months. It is well settled that the documents produced for marking by a party cannot be rejected without marking, when the other side object to the same. The document has to be marked subject to the objection and the said objection has to be considered after conclusion of trial and at the time of delivery of judgment. The learned District Munsif has considered the legal position in proper perspective relying on the judgment of this Court. The learned District Munsif also made it clear that the petitioner will be given an opportunity to examine the witness and to argue the case. In the circumstances, the judgments relied on by the learned counsel for the petitioner are not applicable to the facts of the present case. The learned District Munsif has allowed the application by giving valid and cogent reason. There is no illegality or irregularity in the said order warranting interference by this Court.

10. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

/True copy/

sub Assistant Registrar

To

1. The District Munsif,  
Melur.

2. The section officer,  
V.R section,  
Madurai Bench of Madras High Court,  
Madurai.



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