



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 10.06.2016

CORAM

THE HONOURABLE MR. JUSTICE K. KALYANASUNDARAM

C.R.P. (MD) No. 806 of 2016 (NPD)

and

C.M.P. (MD) No. 4058 of 2016

J. Sekar

.. Petitioner/Petitioner/
3rd Defendant

Vs.

1. Durai Raj

.. 1st Respondent/1st Respondent/
Plaintiff

2. Ponnambalam

3. B. Kala

4. Thangathurai

.. Respondents 2 to 4/ Respondents 2 to 4/
Defendants 1, 2 & 4

Prayer: Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 12.03.2016 made in I.A.No.932-A of 2015 in O.S.No.361 of 2012 passed by the learned Principal District Munsif, Nagercoil.

For Petitioner : Mr. M. P. Senthil

ORDER

This revision is directed against the order dated 12.03.2016 passed in I.A.No.932-A of 2015 in O.S.No.361 of 2012 by the learned Principal District Munsif, Nagercoil.

2. The third defendant in O.S.No.361 of 2012, on the file of the Principal District Munsif, Nagercoil, is the revision petitioner. The suit was filed by the first respondent against the petitioner and three others praying for declaration and permanent injunction. In the suit, the petitioner filed an application in I.A.No.932-A of 2015, under Order 16 Rule 15 & 6 and Section 151 of C.P.C., to examine the witnesses viz., Tahsildar of Neyyattinkara Taluk, Kerala State and the Village Administrative Officer, Kanyakumari, contending that the claim made by the plaintiff based on the document registered at Parasala Sub Register Office as Document No.5969/1983, is not valid and to prove that the petitioner is in possession of the suit property.

3. It is the contention of the first respondent that the sale deed registered at Parasala Sub-Register Office was validated by the learned Principal District Munsif, Nagercoil. Aggrieved over the above said order, the present revision has been filed.



4. Heard Mr.M.P.Senthil, learned counsel appearing for the petitioner and perused the materials available on records.

5. The learned counsel appearing for the petitioner submitted that as per Registration Act, the document registered in the State of Kerala has to be validated within the time frame and without proving that the plaintiff has validated the document, the trial Court partly allowed the application holding that the document is valid. The trial Court made finding without giving an opportunity to the petitioner to prove his case.

6. It is settled law that merits of the case cannot be decided in the interim application. So, I find force in the contention of the learned counsel for the petitioner. In such view of the matter, the finding of the trial Judge in Paragraph No.9, with regard to the validity of the document is set aside and the issue is left open.

7. The trial Court rightly dismissed the petition, observing that the examination of the Tahsildar to prove the sale deed registered at Parasala Sub-Register Office and the examination of the Village Administrative Officer to prove the possession of the defendant, are not necessary. Hence, I do not find any illegality or irregularity in the order impugned in this revision.

8. In the result, the civil revision petition is dismissed accordingly. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub-Assistant Registrar

To
The Principal District Munsif,
Nagercoil.
+One cc to Mr.M.P.Senthil, Advocate, SR.No.30184
Ns
RL/3C/2P/DB/14/7/2016

C.R.P. (MD) No.806 of 2016 (NPD)
and
C.M.P. (MD) .No.4058 of 2016