

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2017

CORAM

THE HONOURABLE Ms. JUSTICE. V.M.VELUMANI

CRP (PD)No.1796 of 2017
and
CMP.No.8475 of 2017

1.Jayakumar
2.Sarasu

... Petitioners

..Vs..

Santhi @ Muthalammal

... Respondent

Prayer:- Civil Revision Petition filed under Article 227 of Constitution of India filed to set aside the fair order and decretal order dated 22.09.2016 passed in I.A.No.169 of 2016 in O.S.No.161 of 2009 passed by the Principal Sub Judge at Puducherry and prays that the CRP may be allowed.

For Petitioners : Mr.O.Djearany

ORDER

This Civil Revision Petition has been filed to set aside the fair order and decretal order dated 22.09.2016 passed in I.A.No.169 of 2016 in O.S.No.161 of 2009 passed by the Principal Sub Judge at Puducherry.

2. The petitioners are the defendants and the respondent is the plaintiff in O.S.No.161 of 2009 on the file of the Principal Sub Court, Pondicherry. The respondent filed the suit for (i) cancellation of unregistered sale agreement dated 10.5.2007 entered between the respondent and the first petitioner, (ii) for a direction to receive the consideration of Rs.2,00,000/- passed on the sale agreement dated 10.5.2007, (iii) to return either the blank, stamped or the blank sheets signed by the respondent along with original registered sale deed 11.6.1998 standing in the name of the plaintiff and (iv) for a permanent injunction.

2.1.The petitioners filed written statement on 02.2.2010 and are contesting the suit. The petitioners/defendants filed 16 documents. The respondent filed an application in I.A.No.161 of 2009 under Order XIII Rule 3 CPC to reject the petition mentioned documents viz., 4,7,8 and 10, on the ground that those documents are inadmissible. According to the respondent, the aforesaid documents filed by the petitioners are only copy of the said documents and since they are not stamped and registered, they are inadmissible in evidence. The petitioners filed counter affidavit and opposed the same on the ground that they relied on the said

documents only for collateral purpose and therefore, they are admissible in evidence.

3. The learned Judge on considering the averments in the affidavit, counter affidavit, and on perusing the documents placed on record and the judgment relied on by the parties held that in so far as document nos. 4, 8 and 10 are concerned, registration is not compulsory and therefore they are admissible, and with regard to document no.7 is concerned, the learned Judge rejected the said document holding that it is inadmissible and passed an order by partly allowing and partly dismissing the application filed by the respondent.

4. Against the said order dated 22.06.2016 passed by the Principal Sub Judge, Puducherry, the petitioners have filed the present Civil Revision Petition.

5. The learned counsel appearing for the petitioners submitted that the learned Judge has not properly appreciated the law on this aspect. Though the learned Judge had relied on the judgment reported in (2010) 2 MLJ 248 in her order, did not follow the ratio laid down in the said judgment. It is contended by the counsel for the petitioners that in the order relied on by the Court below, it is held

that a document can be admitted in evidence if the persons who seeks to file it pays the stamp duty and penalty, but it is held in the order of the Court below that the document No.7 is inadmissible.

6. Heard the learned counsel appearing for the petitioners and perused the materials available on record.

7. From the materials available on record it is seen that the document No.7 is a copy of cancellation deed dated 01.12.2008, which is an unstamped and unregistered document. The law on this aspect is well settled that a document produced before the Court to prove the claim, it has to be stamped and compulsorily registered. But, if the said document produced before the Court is unstamped and unregistered, it cannot be marked as documentary evidence and cannot be marked for any purpose. If the parties are relying on the said unstamped and unregistered document for collateral purpose, then the same can be accepted only if the parties pay the stamp duty and penalty. The said document can be marked and at the conclusion of trial, the Court can decide whether the said document relied on by the parties is only for collateral purpose. If not, the said document has to be rejected. The Court can call upon the parties to pay the stamp duty and penalty and if the same is complied with, the said

document can be marked only for collateral purpose. Further, if a copy of the document produced before the Court is unstamped or unregistered, it is within the discretion of the Court to reject document as inadmissible in evidence, by providing reasons for rejection. In the present case, the document no.7 produced before the trial Court is only a copy of the document for possession and it is not a original document. Further, the petitioners are not entitled to prove their title and possession over the property with the help of document no.7, a copy of cancellation deed dated 01.12.2008, which is an unstamped and unregistered document and hence, it cannot be held it is for collateral purpose.

8. This Court has considered this issue earlier in the order dated 14.03.2011 made in CRP.No.4172 of 2010, placing reliance on the judgment of the Hon'ble Division Bench of this Court reported in **(2001) 1 MLJ 1 [A.C.Lakshmipathy and another V. A.M.Chakrapani Reddiar and Others]**, and held that unstamped and unregistered documents cannot be marked for any purpose to prosecute a case. In view of the above judgment, the document No.7, which is an unregistered and unstamped document copy is inadmissible in evidence. There is no illegality or irregularity in the order dated 22.09.2016 passed by the learned Principal Sub Judge,

Puducherry, in I.A.No.169 of 2016 in O.S.No.161 of 2009 warranting interference by this Court.

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

07.06.2017

Speaking Order / Non-speaking Order
Index : Yes/No
Internet: Yes/No

To

The Sub Court,
Puducherry.

V.M.VELUMANI, J

ds

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