

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE **M.GOVINDARAJ**

CRP(PD).No.2324/2017 and C.M.P.No.10949/2017

Pappathi

...Petitioner/Defendant

Vs..

Subramani

..Respondent/ Plaintiff

Prayer:- Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decretal order dated 07.04.2017 made in I.A.No.180 of 2016 in O.S.No.9 of 2015 on the file of the learned Principal District Court, Dharmapuri.

For Petitioner : Mr.N.Manokaran

ORDER

The Civil Revision Petition is taken up for final disposal at the admission stage itself.

2. The petitioner is the defendant in the suit.
3. The learned counsel appearing for the petitioner would submit that the Civil Revision Petition is filed against the dismissal of the Petition filed by him under Order 7 Rule 11 CPC for rejecting the plaint.

4. The suit is pending in trial stage. The petitioner sought adjournment for Cross Examination of PW.1 and even after sufficient opportunity to cross examine P.W.1 the petitioner has not availed the opportunity and hence, his evidence was closed.

5. The matter was posted for further examination of plaintiff and at this stage the above petition under Order 7 Rule 11 CPC has been filed only on the sole ground of Ex.A1 / Unregistered Sale Deed. Therefore, the suit itself is not maintainable on the basis of unregistered Sale Deed.

6. The Trial Court has relied on Section 49 of the Registration Act, 1908 and held that in the suit for specific performance, the unregistered document can be marked for collateral purposes. Reliance was placed on the judgment reported in **2016 (3) CTC 437** [AL.Alagappan @ Keerthi Vasan V. K.Ramasamy and another] it has been held that *"the Application for rejection of plaint cannot be entertained and the issue of insufficient stamping of documents could be decided during the trial"*. Therefore, unregistered document is not a cause of action in the present suit and then, dismissed the petition for rejection of plaint.

7. I do not find any discrepancy in the order and the petitioner has approached this Court very belatedly and this Court, the reasons stated by the petitioner for not cross examining P.W.1 was also considered by the Court below and the petition has rejected.

8. Considering the facts and circumstances of the case, a direction is issued to the Trial Court to complete the trial in OS.No.9/2015 within a period of six months from the date of this order. It is open to the petitioner to raise all the issues before the Trial Court.

9. The Civil Revision Petition is disposed of. Consequently, the connected Miscellaneous Petition is also closed. No costs.

सत्यमेव जयते

18.07.2017

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Index :Yes / No
Internet:Yes / No

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M.GOVINDARAJ.,J.

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To
The Principal Subordinate Judge,
Cuddalore.



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