

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.3623 of 2014
& M.P.No.1 of 2014

Aravindan

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Petitioner

Vs.

1.Bhuvaneswari
2.Padma Priya
3.Selvakumar
4.The Tahsildar, Vanur
5.The Revenue Divisional Officer
Villupuram
6.The District Revenue Officer,
Villupuram
7.The Deputy Collector,
Villupuram
8.Iyyanarappan

Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order of the learned District Munsif cum Judicial Magistrate, Vanur in I.A.No.600 of 2013 in O.S.No.82 of 2010 dated 31.07.2014.

For Petitioner : Mr.S.Kaithamalai Kumaran
For Respondents : Mr.R.Balavijayan for R1 & R3
No appearance for RR6 & RR8
Not ready in notice
Reg. RR2 & RR7

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order of the learned District Munsif cum Judicial Magistrate, Vanur in I.A.No.600 of 2013 in O.S.No.82 of 2010 dated 31.07.2014.

2. The petitioner is the plaintiff and the respondents are defendants in the suit in O.S.No.82 of 2010 on the file of District Munsif cum Judicial Magistrate, Vanur. The petitioner filed the above suit for declaration and permanent injunction restraining the respondents from interfering with his peaceful possession and enjoyment of the suit schedule property. The respondents 1 to 3 filed written statement on 21.02.2011 and 7th respondent filed written statement on 27.06.2011 and are contesting the suit. The respondents 1 to 3 filed I.A.No.600 of 2013 in O.S.No.82 of 2010 under Section 151 r/w Order XIII Rule 3 CPC to reject the documents marked as Exs.A1 to A5, A15 & A16 as inadmissible. According to the respondents 1 to 3, Ex.A2 is an unregistered sale deed and the petitioner is relying upon the said document for main purpose and therefore it is not admissible. As far as Exs.A1, A3 to A5, A15 & A16 are concerned, those documents are fraudulently

created for the purpose of the suit by one Iyyanarappan, relative of the petitioner who is the 7th Defendant in the suit.

3. The petitioner filed counter and submitted that Ex.A2 is only “கைக்கிரையப்பத்திரம்” and it is not a sale deed and need not be registered. A recital in the document would reveal that subsequently, a sale deed in the required stamp paper would be executed and registered shows that Ex.A2 is only an agreement of sale. The respondents 1 to 3 have not given any reason for rejecting the documents Exs.A1 to A5, A15 & A16. These documents are not created documents and the contention of the respondents 1 to 3 is not correct. The learned Judge, considering the materials on record and the nature of documents allowed the application rejecting Ex.A2 as inadmissible.

4. Against the said order made in I.A.No.600 of 2013 in O.S.No.82 of 2010 dated 31.07.2014, the present Civil Revision Petition has been filed by the petitioner.

5. Heard the learned counsel for the petitioner as well as respondents and perused the materials available on record.

6. The learned counsel for the petitioner contended that Ex.A2 is only an agreement of sale and it is not a sale deed. The learned counsel for the petitioner referred to copy of Ex.A2 filed in the typed set of papers and contended that it is only an agreement of sale. The said contention is not correct. As per the recital in the said document, it is seen that the 8th respondent herein / 7th defendant in the suit has paid entire sale consideration of Rs.1,28,800/- to his vendor and possession was handed over to the 8th respondent. The 8th respondent was given absolute right to enjoy the property and power to alienate the property. It is also mentioned in the second page of the said document that the same is a sale deed. The recital in Ex.A2 clearly reveals that it is a sale deed in favour of the 8th respondent and the sale consideration is Rs.1,28,800/- and therefore it has to be properly stamped and compulsorily registered.

7. The learned Judge, considering the recitals in Ex.A2 came to the conclusion that the said document is only a sale deed which has to be compulsorily registered, rejected Ex.A2 as inadmissible. As per Order XIII Rule 3 CPC, the Court has power to reject the documents at any stage of the suit, when the same is inadmissible, when it considers the same as irrelevant and inadmissible in

evidence. In view of Order XIII Rule 3 CPC, the contention of the learned counsel for the petitioner that Court has no power to reject the documents once the same has been admitted as marked, is without merits.

8. In view of the above circumstances, the judgment relied on by the learned counsel for the petitioner reported in **2010 (5) SCC 401 [S.Kaladevi v. V.R.Somasundaram and Ors.]** is not applicable to the facts of the present case.

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

11.12.2017

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To

The District Munsif cum Judicial Magistrate,
Vanur.

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V.M.VELUMANI, J.

rgr



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