

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-06-2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD) Nos.1831 & 1832 of 2015
and M.P.Nos.1, 1 of 2015

Orders reserved on 12.06.2017	Orders pronounced on 30.06.2017
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1.A.Suryanarayanan
 2.A.Girija
 3.A.Venkatasubramaniam
 4.V.Bakkialakshmi
 5.A.Prabhavathi

...

Petitioners in both CRPs

Vs.

David

...

Respondent in CRP PD No.1831/2017

Dakshayani

...

Respondent in CRP PD No.1832/2017

PRAYER IN CRP PD NO.1831/2017 : Civil Revision Petition is filed, under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 21.11.2014 in I.A.No.1132 of 2014 in O.S.No.61 of 2012 on the file of the Principal District Munsif, Poonamallee.

PRAYER IN CRP PD NO.1832/2017 : Civil Revision Petition is filed, under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 21.11.2014 in I.A.No.1130 of 2014 in O.S.No.419 of 2011 on the file of the Principal District Munsif, Poonamallee.

For Petitioner : Mr.V.Raghavachari
in both CRPs for Mr.M.V.Seshachari

For Respondents
in both CRPs : Mr.S.V.Jayaraman
Senior Counsel for
Mr.K.V.Shanmuganathan

COMMON ORDER

These Civil Revision Petitions are filed to set aside the fair and decretal order dated 21.11.2014 in I.A.No.1132 of 2014 in O.S.No.61 of 2012 and order dated 21.11.2014 in I.A.No.1130 of 2014 in O.S.No.419 of 2011 on the file of the Principal District Munsif, Poonamallee.

2. In both the Civil Revision Petitions, the petitioners are the plaintiffs and the respondents are the defendants in O.S.Nos.61 of 2012 & 419 of 2011. Since the issues involved in both the Civil Revision Petitions are one and the same, this Common order is passed.

3. The petitioners filed suit for eviction of the respondents and directing them to vacate and hand over the vacant possession of the

suit property to the petitioners, after removing the superstructure and directing the respondents to pay a sum of Rs.150/- & Rs.75/- respectfully to the petitioners.

4. According to the petitioners, the predecessor of respondents were tenants under one M.Sundaramma who is the grandmother of petitioners 1 to 4 and mother-in-law of 5th petitioner as per rental agreement dated 09.10.1962 and 26.10.1966 respectively on a monthly rent of Rs.25/-. After the death of predecessor of respondent, they became tenants under the said Sundaramma. The respondent did not pay any rent and therefore, petitioners issued a notice dated 19.11.2011, 27.10.2011 respectively and filed suit for eviction of the respondents. The respondents filed written statement and denied that they are tenants under the said Sundaramma and they are enjoying the property on their own right and they are not liable to pay any rent. They also denied that plaintiffs are landlords of the suit property.

5. The petitioners filed I.A.Nos.1132 Of 2014 and 1130 of 2014 for permission to receive and mark the plaint document Nos.2 and 1,

i.e. rental agreement dated 09.10.1962 & 26.10.1966, on payment of necessary stamp duty and penalty by the petitioners. According to the petitioners, they are relying on the said documents to prove the character of the possession of the respondent and therefore there is no impediment in receiving and marking the said document. The respondents filed counter affidavit and opposed the applications on the ground that unstamped and unregistered documents cannot be marked even for collateral purpose to prove the nature of possession.

6. The learned Judge, considering the averments in the affidavit, counter affidavit, materials on record and judgments relied on by the learned counsel for the petitioners as well as the respondents, dismissed the said applications in both the suits, filed by the petitioners.

7. Against the said order of dismissal dated 21.11.2014 made in I.A.No.1132 of 2014 in O.S.No.61 of 2012 and order dated 21.11.2014 made in I.A.No.1130 of 2014 in O.S.No.419 of 2011, the present two Civil Revision Petitions are filed.

8. I had heard the arguments in CRP PD No.1741 of 2014 relating to rejection of document which are unstamped and unregistered under Order XIII Rule 3 CPC. The learned counsel for the petitioners and the learned Senior Counsel for the respondents submitted that the arguments advanced in CRP PD No.1741 of 2014 will be the argument in the present two CRPs also. In addition to that, the learned counsel for the petitioners submitted that the learned Judge dismissed the applications relying on the judgments which were overruled subsequently and prayed for allowing both the Civil Revision Petitions.

9. The learned Senior Counsel appearing for the respondents submitted that at that time when unstamped and unregistered document is produced for marking in evidence, it has to be decided whether the same is produced to substantiate main case or for collateral purpose.

10. Heard the learned counsel for the petitioners and Senior Counsel for the respondents and perused the materials available on record.

11. Today, I have passed a detailed order in CRP PD No.1741 of 2014 allowing the said Civil Revision Petition holding that unstamped and unregistered documents cannot be marked even for collateral purpose. The reasons given in the said Civil Revision Petition are applicable to these two Civil Revision Petitions also. From the averments in the plaint and documents sought to be marked, it is clear that the petitioners are seeking to rely on the said document for the main purpose that the respondents are tenants under the petitioners as per rental agreements dated 09.10.1962 and 26.10.1966 respectively. As per the judgments of the Hon'ble Apex Court and this Court, unregistered and unstamped documents cannot be marked and relied on for any purpose. In view of the same, the petitioners cannot pay stamp duty as well as penalty for marking the said documents and rely on the same to prove their case.

12. For the above reasons, both the Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

30.06.2017

Speaking/Non-speaking order

Index : Yes

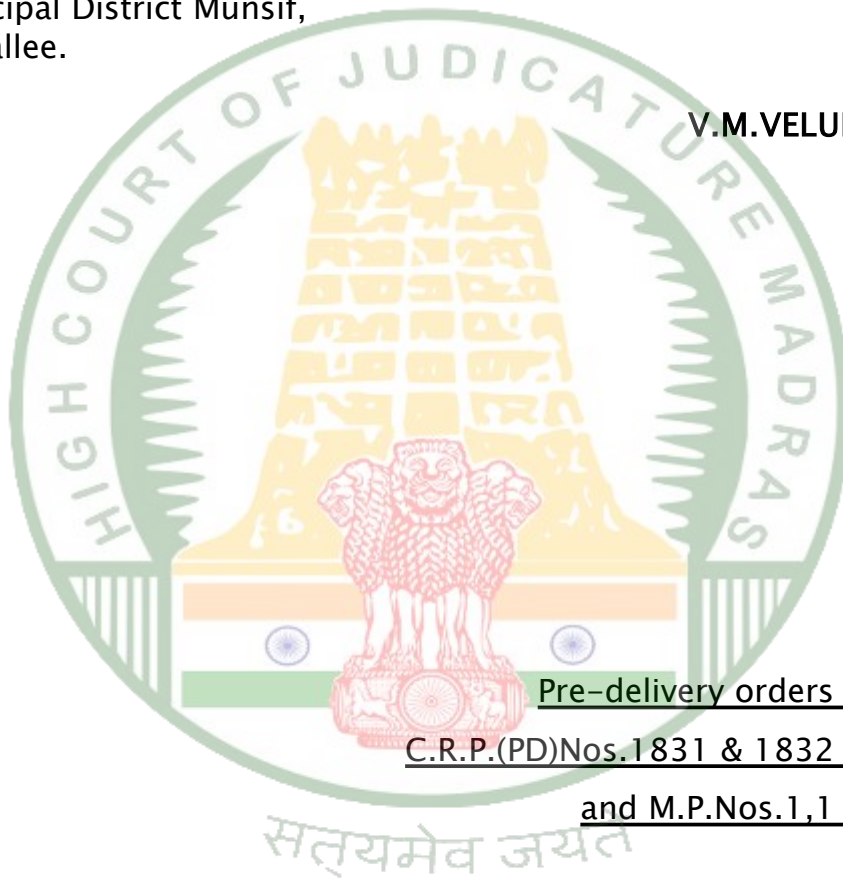
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To

The Principal District Munsif,
Poonamallee.

V.M.VELUMANI, J.

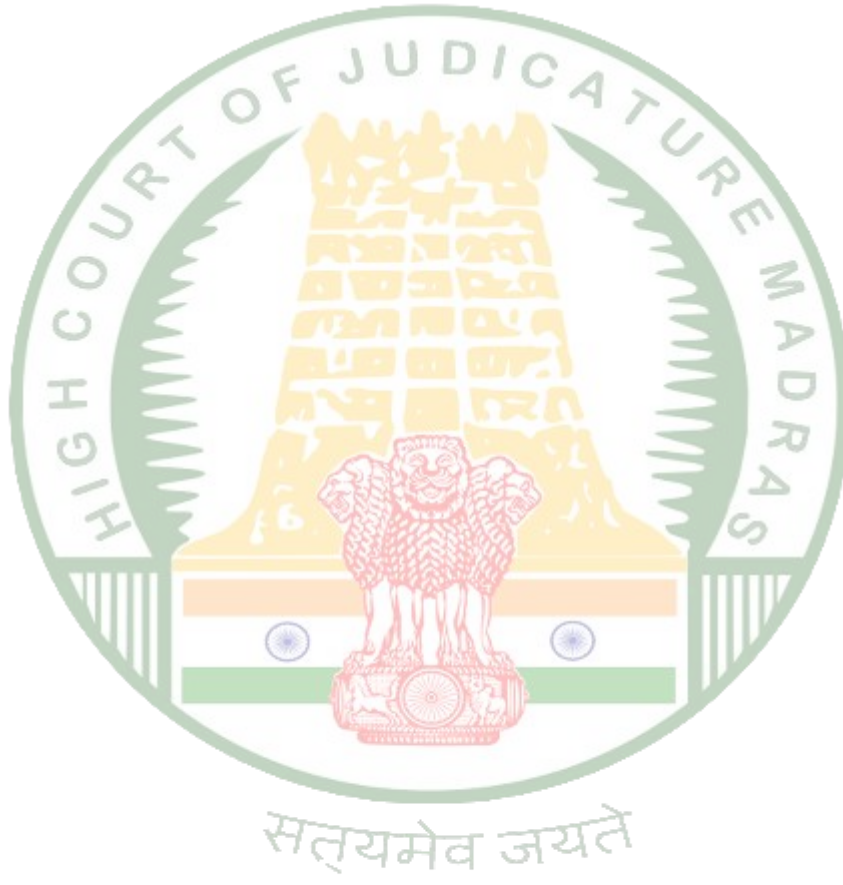
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Pre-delivery orders made in
C.R.P.(PD)Nos.1831 & 1832 of 2015
and M.P.Nos.1,1 of 2015

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