

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1021 of 2013
& M.P.No.1 of 2013

Shanthi

.. Petitioner

Vs.

Dhanam

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 01.02.2013 passed in I.A.No.19 of 2013 in O.S.No.39 of 2012 on the file of the District Munsif Court, Thiruvarur.

For Petitioner : Mr.M.Thamizhavel

For Respondent : Mr.T.S.Vijayaragavan

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 01.02.2013 passed in I.A.No.19 of 2013 in O.S.No.39 of 2012 on the file of the District Munsif Court, Thiruvarur.

2. The petitioner is the second defendant and respondent is

the plaintiff in O.S.No.39 of 2012. The respondent filed the said suit for recovery of possession of the suit property and for arrears of rent against the petitioner and one G.Sagunthala. The first defendant/G.Sagunthala filed written statement in the month of June 2012 and is contesting the suit. The respondent let in evidence and closed her side. When the suit was posted for evidence on behalf of the petitioner, the petitioner filed I.A.No.19 of 2013 under Order VIII Rule 1 (3) C.P.C. for permission to file and mark five documents.

3. According to the petitioner, those documents were traced only at the time of filing of the application and delay in filing the said application is neither wilful nor wanton.

4. The respondent filed counter affidavit and opposed the said application with regard to filing and marking of the second document dated 18.08.1995. According to the respondent, the said document is insufficiently stamped and unregistered sale agreement and it cannot be marked when it is relied on by the petitioner for any purpose. The learned counsel for the petitioner submitted before the learned Judge that the second document is only a sale agreement and it is not a sale deed.

5. The learned Judge, considering all the averments made in the affidavit, counter affidavit, considering the entire documents, reply notice and written statement filed by the first defendant, held that the said document is only a sale deed, the petitioner has incorporated the word "agreement" in the sale deed. On such findings, the learned Judge impounded the second document dated 18.08.1995 and held that the same can be marked only after payment of stamp duty and penalty as per Section 35 of the Stamp Act. The learned Judge permitted the petitioner in filing and marking of other three documents i.e., Document Nos.1,3 and 4.

6. Against the said order dated 01.02.2013 made in I.A.No.19 of 2013, the present Civil Revision Petition is filed by the petitioner/second defendant.

7. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

8. From the impugned order of the learned Judge it is clear that the second document dated 18.08.1995 is only a sale deed. The learned Judge has considered the reply notice dated 19.12.2011

and written statement filed by the first defendant held that the petitioner herself has stated that the said document is a sale deed.

9. The learned Judge after verifying the said document has held that the petitioner has added the word "agreement" in the sale deed to show that the said document is not a sale deed, but it is only a agreement of sale. The learned Judge has considered all the materials on record impounded the said document and held that the said document can be marked only after payment of stamp duty and penalty. In the circumstances, there is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 01.02.2013.

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

Index : Yes/No
dm/kj

07.11.2017

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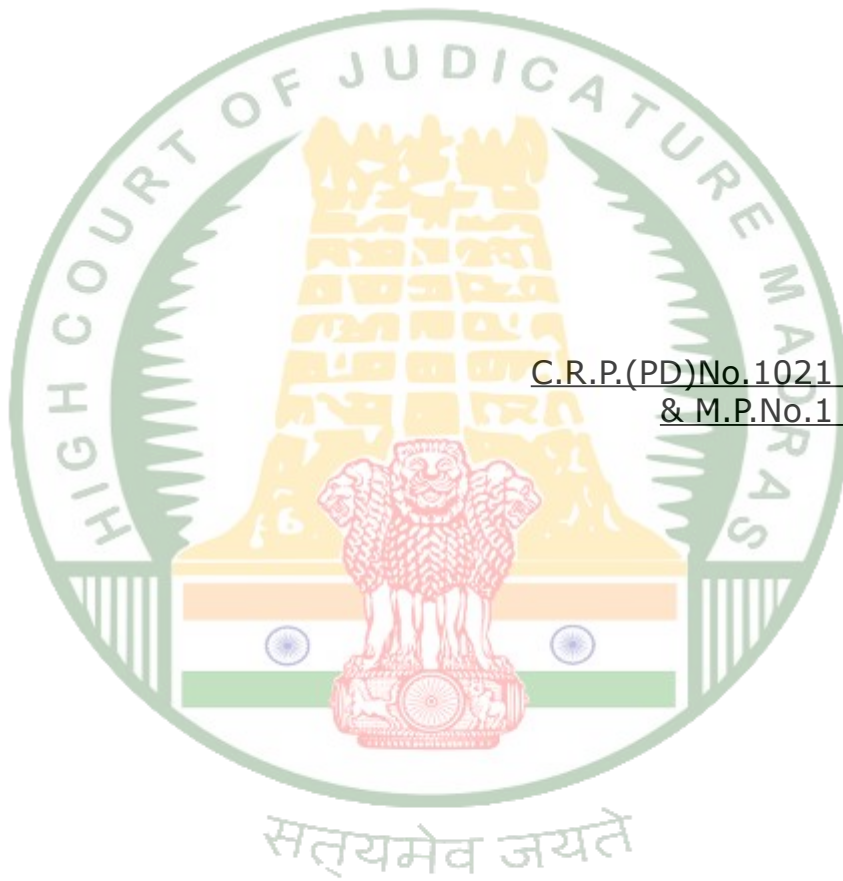
The District Munsif, Thiruvarur.



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V.M.VELUMANI, J.

dm/kj



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