

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.04.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.1037 of 2013

Thangarasu

: Petitioner

versus

Gurusamy

: Respondent

PRAYER: Revision filed against the order dated 16.11.2012, in I.A.No.308 of 2012 in O.S.No.171/2011 on the file of the Principal District Munsif Court, Mayiladuturai.

For petitioner :: Mr.S.Sounthar

For respondent :: Mr.S.Nagarajan

ORDER

This revision is directed against the order dated 16 November 2012 in I.A.No.308 of 2012 dismissing the application filed by the petitioner to receive documents in O.S.No.171 of 2011 on the file of the learned Principal District Munsif, Mayiladuthurai.

2. Heard the learned counsel for the petitioner and the respondent.

3. The respondent filed a suit in O.S.No.171 of 2011 before the

learned Principal District Munsif, Mayiladuthurai, against the petitioner for injunction. The suit was contested by the petitioner by filing written statement. The petitioner filed an interlocutory application in I.A.No.308 of 2012 to receive a document in evidence. The application was opposed by the respondent on the ground that the sale deed was not registered and as such, it was not admissible in evidence.

4. The learned Principal District Munsif dismissed the application primarily on the ground that it was an unregistered document. According to the learned Judge, in view of the nature of document, the petitioner has not made out a case to pay stamp duty for the purpose of marking it in evidence.

5. There is no dispute that the document in question is an unregistered one. The learned Principal District Munsif is therefore correct in his observation that the petitioner could not be permitted to mark the document to prove his right. However, the question is as to whether the petitioner should be denied of an opportunity to prove the nature of possession.

6. The Hon'ble Supreme Court in ***Bondar Singh and others vs. Nihal Singh and Ohters, 2003(4) SCC 161***, observed that unstamped and unregistered sale deed could be looked into for collateral purposes, more

particularly, to prove the nature of possession over the suit land.

7. The learned counsel for the petitioner submitted that the petitioner would place reliance on the document only to show that he is not a trespasser. The said submission is recorded.

8. The Trial Court dismissed the application only on the ground of non registration and insufficient stamping. The petitioner now made it clear that his intention is only to show his nature of possession. In view of the said submission the petitioner should be permitted to produce the document.

9. In the result, the order dated 16 November 2012 is set aside. The application in I.A.No.308 of 2012 is allowed. However, I make it clear that the document in question is admissible only for proving the nature of possession of the petitioner. in short, the document is not admissible in evidence for proving the sale in favour of the petitioner.

10. The civil revision petition is allowed with the above clarification. No costs. Consequently, M.P.No.1 of 2013 is closed.

28.04.2017

Index:Yes/no
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To

The Principal District Munsif Court, Mayiladuturai.

K.K.SASIDHARAN, J.

(tar)

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