

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2017

CORAM

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

C.R.P.(PD) No.4501 of 2013
and
M.P.No.1 of 2013

1.Malaiyan
2.Malliga
3.Arjunan
4.Asokan

.. Petitioners

Vs

Ramasamy

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair order and decretal order of the learned Judicial Magistrate-cum-District Munsif, Parangipettai, allowing I.A.No.178 of 2013 in O.S.No.9 of 2008 by order dated 12.09.2013.

For Petitioners

: Mr.R.Gururaj

For Respondent

: Mr.A.Muthukumar

ORDER

The revision petitioners herein are the plaintiffs in O.S.No.9 of 2008 on the file of the learned District Munsif Court/Judicial Magistrate, Parangipattai and they have come forward with this Civil Revision Petition challenging the order made in I.A.No.178 of 2013 dated 12.09.2013 wherein the Learned trial judge permitted the respondent/ defendant to mark an unregistered sale deed dated 03.09.1993.

2.I heard Mr.R.Gururaj, learned counsel for the petitioners and Mr.A.Muthukumar, learned counsel for the respondent and perused the entire materials available on record.

3.According to the revision petitioners/ plaintiffs the documents sought to be marked is an unregistered sale deed and the same cannot be permitted to mark which is barred under section 17 of the Registration Act. Further, the said application was filed under section 151 of CPC by quoting a wrong provision of law and the application is also belated one. Hence they argued to dismiss the said

application.

4.The trial Court taking into consideration of the fact that the defendant has paid stamp duty and penalty and therefore held that though the documents sought to be marked is an unregistered sale deed, the defendant has rectified the defect by paying stamp duty and penalty and hence it can be marked.

5.In my considered opinion the said finding of the trial Court is legally sustainable one and the same cannot be held that unsustainable in law.

6.Further, unregistered document can be marked and looked into for Collateral purposes, provided stamp duty and penalty to be paid. In the case on hand, the defendant has already paid stamp duty and penalty and therefore, the objection raised by the revision petitioners for marking document i.e., unregistered sale deed dated 03.09.1993 cannot be sustained and the trial Court has rightly rejected the contention of the revision petitioner.

7.Mere marking document alone will not give right to the

defendant and the same is subject to proof and relevancy. Further, it is always open to the revision petitioners/ plaintiffs to raise their objection in respect of the unregistered sale deed, but for marking the same, they cannot have any objection.

8. In this aspect, the decision cited by the learned counsel for the petitioner reported in 2009 (5) CTC 822 is squarely applicable to the facts of the present case.

9. In view of the foregoing discussions, I do not find any irregularity and infirmity over the order impugned.

10. In the result:

(a) this civil revision petition is dismissed, by confirming the order passed in I.A.No.178 of 2013 in P.S.No.9 of 2008, dated 12.09.2013, on the file of the learned Judicial Magistrate-cum-District Munsif, Parangipettai;

(b) the learned Judicial Magistrate-cum-District Munsif, Parangipettai, is hereby directed to take up the suit on day to day basis, without giving any adjournments to either parties and to dispose of the same, since the suit is for the year 2008, within a period of two

months from the date of receipt of a copy of this order. Both the parties are hereby directed to co-operate for early disposal of the suit. No costs. Consequently, connected miscellaneous petition is closed.

19.06.2017

vs

Note: Issue order copy on 23.01.2019

Index : Yes

Internet : Yes

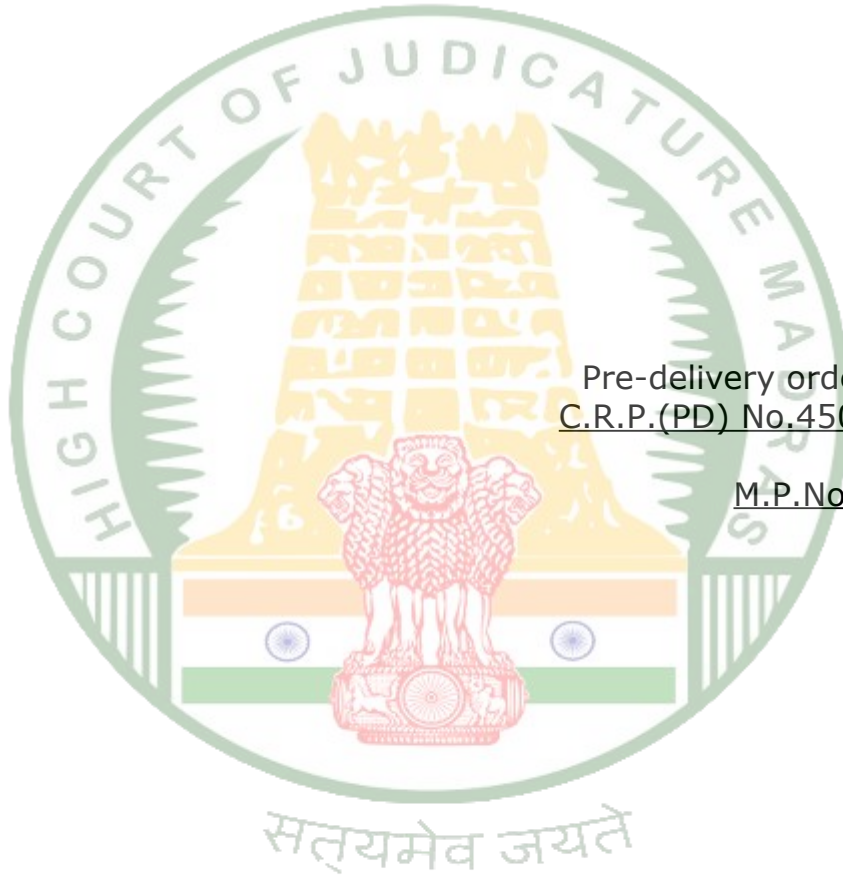
To

The Judicial Magistrate-cum-District Munsif,
Parangipettai.

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M.V.MURALIDARAN, J.

VS



Pre-delivery order made in
C.R.P.(PD) No.4501 of 2013
and
M.P.No.1 of 2013

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