

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.3899 of 2012
& M.P.No.1 of 2012

Nallasamy

.. Petitioner

Vs.

Muthusamy Gounder

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 13.12.2010, made in I.A.No.1143 of 2010 in O.S.No.76 of 2005 on the file of the District Munsif cum Judicial Magistrate, Perundurai.

For Petitioner : Mr.T.Gowthaman

For Respondent : No appearance

ORDER

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This Civil Revision Petition is filed against the fair and decretal order dated 13.12.2010, made in I.A.No.1143 of 2010 in O.S.No.76 of 2005 on the file of the District Munsif cum Judicial Magistrate, Perundurai.

2. The petitioner is the defendant and respondent is the plaintiff in O.S.No.76 of 2005, on the file of the District Munsif cum Judicial Magistrate, Perundurai. The respondent filed the said suit against the petitioner for recovery of possession, arrears of rent of Rs.3750/- and damages at the rate of Rs.250/- per month from the date of suit till the date of actual delivery of possession to the respondent. The petitioner filed written statement on 25.08.2010 and is contesting the suit. Both the parties let in evidence and closed their side. When the suit was posted for arguments, the petitioner filed I.A.No.1143 of 2010 to reopen the case and for permission to mark the documents such as patta dated 30.03.1993, house tax payment receipts and original sale deed dated 11.06.1992. According to the petitioner, the said documents were not filed earlier. Therefore, it is necessary to mark the document in order to prove his case.

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3. The respondent filed counter affidavit and opposed the said application and submitted that the petitioner has filed application at belated stage, only to drag on the proceedings. The learned Judge, considering the materials on record and judgments relied on by the

parties, held that the validity of the document can be considered at the conclusion of the trial and petitioner has to pay the stamp duty with the penalty for the document and directed the petitioner to pay the stamp duty with penalty.

4. Against the said portion of the order dated 13.12.2010, made in I.A.No.1143 of 2010 in O.S.No.76 of 2005, directing him to pay the stamp duty with penalty, the petitioner has come out with the present civil revision petition.

5. Heard the learned counsel appearing for the petitioner and perused the materials available on record. Though notice was served on the respondent and his name is printed, there is no representation for the respondent either in person or through counsel.

6. The contention of the learned counsel appearing for the petitioner is that the stamp duty payable can be decided only after conclusion of trial and the learned Judge erred in directing the petitioner to pay stamp duty penalty as a condition for admitting the document. This issue is no longer *res-integra*. In number of

judgments of this Court, especially in a Division Bench judgment reported in "**(2001) 1 MLJ 1 (Ac. Lakshmipathy and another Vs. A.M.Chakrapani Reddiar and five others)**" , this Court held that a document not properly stamped can be admitted in evidence only for collateral purpose after party pays stamp duty with the penalty. In the present case, the petitioner seeks to mark the document and unregistered sale deed. The learned Judge, considering the documents, directed the petitioner to pay the stamp duty with penalty before admitting the document in evidence. By this order, the learned Judge has not committed any irregularity or illegality, warranting interference by this Court.

7. In the result, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

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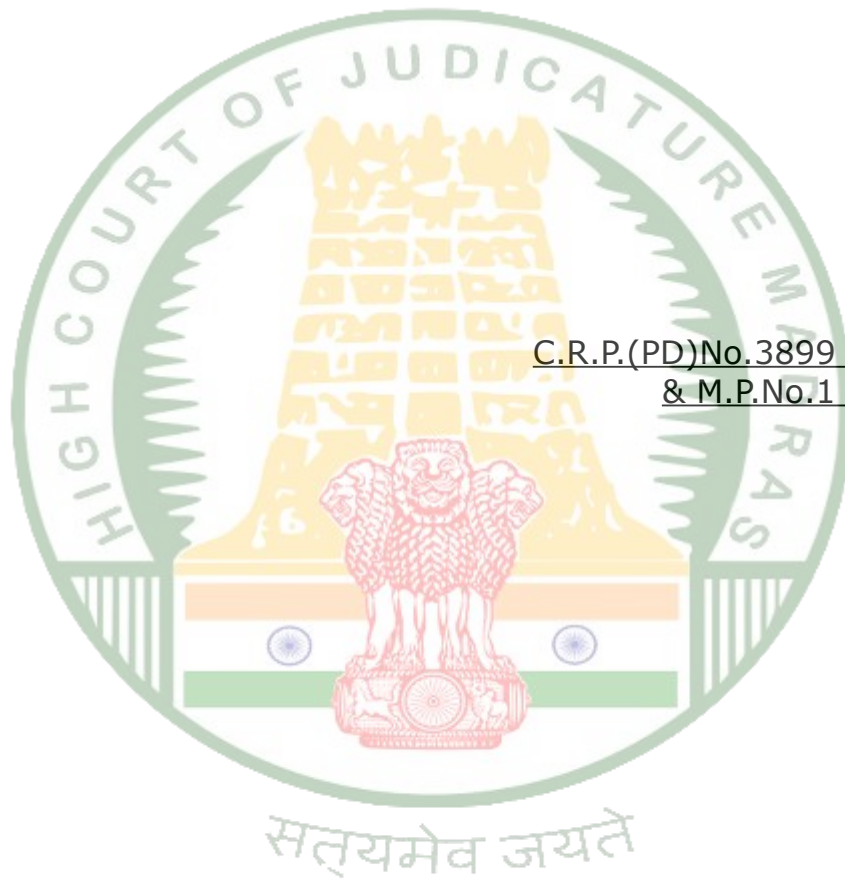
Index: Yes/No
gsa

To

The District Munsif cum Judicial Magistrate,
Perundurai.

V.M.VELUMANI, J.

gsa



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