



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2017

Coram:

WEB COPY

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

CRP (PD) (MD) No.1130 of 2017
and
CMP (MD) No.5167 of 2017

Kamaraj

... Petitioner

-Vs-

Manickam

... Respondent

Prayer:- Civil Revision Petition filed under Section 227 of Constitution of India, to set aside the order dated 20.03.2017 in unnumbered I.A. Of 2017 in O.S.No.64 of 2015 on the file of the Principal District Munsif cum Judicial Magistrate No.I, Srivilliputhur.

For Petitioner : Mr.K.Sekar

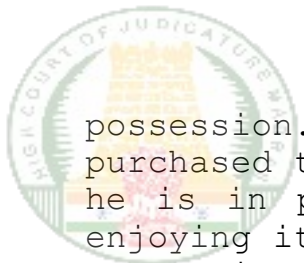
ORDER

Civil Revision Petition is filed to set aside the order dated 20.03.2017 in unnumbered I.A. Of 2017 in O.S.No.64 of 2015 on the file of the Principal District Munsif cum Judicial Magistrate No.I, Srivilliputhur.

2. The revision petitioner is the defendant in the suit filed for permanent injunction and costs. Pending trial, the revision petitioner herein has filed an application to reject the reception of unregistered sale deed relied by the plaintiff, since it is inadmissible evidence. The Trial Court has rejected the petition, without even numbering it, on the ground that in the suit for bare injunction the unregistered sale deed as likely to be relied upon by the plaintiff for the collateral purpose to establish the possession of his property.

3. The contention of the Revision Petitioner is that the proof of possession through unregistered sale deed is not a collateral purpose and admission of unregistered sale deed into evidence is barred under statute. Therefore the order of the Trial Court is erroneous.

4. The suit filed by the respondent is for bare injunction restraining the defendants from interfering into his peaceful



possession. The case of the plaintiff is that on 15.11.1990 he purchased the property from one Mariyappa Pillai, since the purchase he is in possession of the property made improvement over it and enjoying it peacefully. For the said purpose to prove his continuous possession and peaceful enjoyment, the petitioner wants to rely upon the unregistered sale deed, through which he was put into possession.

5. The contention of the Revision Petitioner is that to prove the possession plaintiff cannot rely upon the unregistered sale deed since the reliance of unregistered sale deed is not for the collateral purpose but for substantial purpose of proving the possession. The Trial Court, while dismissing the application without numbering has held that the petitioner questioning the admissibility of the document is baseless.

6. This Court is of the opinion that whether, the possession of the plaintiff's is based on the sale deed and whether his possession is disturbed by the defendants is the point to be decided during the course of Trial and for the said purpose it is necessary to admit the documents subject to the proof of the said sale deed. In the cases of this nature marking unregistered sale deed or agreement cannot be restrained at the inception. It is left open to the Trial Court to decide based on the evidence let in by the respective parties to decide upon the reliability of the said document.

7. Therefore, this Court finds no merit in entertaining this Revision Petition at this stage. Dismissal of the revision petition shall not stand in the way of the revision petitioner/defendant to attack the alleged sale deed on the grounds raised in this revision petition. Following the judgment of Supreme Court in **Bondar Singh and others -Vs- Nihal Singh and others reported in 2004(1) LW 706 (SC)** this Court in several judgments have reiterated the position of law on this point that an unstamped and unregistered sale deed can very well be looked into even if the same is not admissible in evidence, to establish the nature of possession of the party concerned over the suit property.

8. With the above observation, the Civil Revision Petition is dismissed. Consequently, Connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar



To

The Principal District Munsif cum
Judicial Magistrate No.I,
Srivilliputhur.

TA/MRN

TE/GT/SAR-II : 03/07/2017 : 3P/2C

CRP (PD) (MD) No.1130 of 2017 and
CMP (MD) No.5167 of 2017
15.06.2017