



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.06.2017
CORAM :
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

WEB COPY

CRP (PD) (MD) No.1201 of 2017
and
CMP (MD) No.5679 of 2017

1) Durairaj
2) Suyambulingam
3) Kannan
4) Raja

... Petitioners/ Respondents/ Plaintiffs

vs.

Suyambu (Died)
1) Chidampara Jegadheesan
2) J.P.Arasan

... Respondents 1 & 2/ Respondents 2 & 3/
Defendants 2 & 3

Annakili Ammal (Died)
3) Samuvel Santhakumar
4) Panneer Selvam

... Respondents 3 & 4/ Respondents 5 & 6/
Defendants 5 & 6

Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 11.03.2017 made in I.A.No.616 of 2016 in O.S.No.75 of 2010 on the file of the Additional District Munsif Court, Valliyoor.

For Petitioner : Mr.A.Arumugam

ORDER

The revision petitioners herein are the plaintiffs in O.S.No.75/2010 on the file of the Additional District Munsif, Valliyoor. The said suit is laid for the relief of declaration of title and consequential relief of permanent injunction in respect of the suit property.

2.As per the plaint, the suit property was purchased by the plaintiffs from the 1st defendant on 21.08.1989. Due to mutual mistake, the property survey number described as S.No.515/3A instead of 516/3A. The above mistake was accepted by the 1st defendant and he consented for change of patta in respect of S.No.516/3A. He also agreed to execute a rectification deed. Accordingly, a rectification deed was also prepared on a stamp paper. The defendants for reasons best known did not come forward to execute the said rectification deed dated 18.12.2008.



3.If any error crept in the document due to fraud or mutual mistake, a suit can be filed for rectifying the instrument under Section 26 of the Specific Relief Act. Execution of a rectification instrument and registering the same is only an optional remedy.

4.Accordingly, the plaintiffs have laid the suit for relief of declaration and permanent injunction in respect of suit schedule property in Survey Nos.516/3A, 516/B and 516/1A. In the course of trial, the plaintiffs have taken out an application I.A.No.616/2016 to accept the unregistered and unsigned rectification deed dated 18.12.2008 duly written on stamp paper.

5.The Trial Court after considering the plea and provision of law regarding admission of unregistered document for collateral purpose, has held that the document sought to be introduced is not an agreement at all leave alone an unregistered document. Therefore, it cannot be looked into for any purpose.

6.Perusal of the document sought to be marked though prepared on a non judicial stamp paper, it is not signed by the parties to the document. It is not even worth the paper on which it is written. Under Section 26 of the Specific Relief Act, a suit can be filed for rectification of a document. For the said purpose, self-serving document not even signed by the person who relies upon it, leave alone the person against whom likely to be used cannot be let in evidence just because the photographs are affixed on it. By no stretch of imagination, this document can have the trappings of agreement worth admitting into evidence by Court of law.

This Court finds no error or illegality in the impugned order. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writs)

/True copy/

Sub Assistant Registrar

To
The Additional District Munsif,
Valliyoor.

+1 CC to M/s.A.ARUMUGAM, Advocate, SR No. 62489.

NBI

PSM/KP/SAR1/05.07.2017/2P/3C

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