



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 02.02.2017

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.214 of 2017
and C.M.P(MD)No.950 of 2017

R.Ramanathan

... Petitioner/Petitioner/
3rd Defendant

Vs.

R.Krishnan

... Respondent/Respondent/
Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order passed in I.A.No.111 of 2016 in O.S.No.2 of 2011, dated 07.09.2016 in respect of the rejection of the second document (sale deed) alone on the file of the District Munsif cum Judicial Magistrate Court, Thirumayam, Puthukottai District.

For Petitioner : Mr.S.Jeyakumar.

ORDER

The petitioner has filed the above Civil Revision Petition against the fair and decreetal order, dated 07.09.2016 passed in I.A.No.111 of 2016 in O.S.No.2 of 2011 in respect of the rejection of the second document (sale deed) alone on the file of the District Munsif cum Judicial Magistrate, Thirumayam, Puthukottai District.

2.The petitioner is the third defendant and the respondent is the plaintiff in the suit in O.S.No.2 of 2011. The respondent filed the said suit for declaring that the plaintiff is entitled to 1/9th share in the suit properties and for partition and separate possession of suit properties by metes and bounds and to allot 1/9th share by way of final decree. The petitioner filed an application in I.A.No.111 of 2016 under Order 8 Rule 1A3 C.P.C., to file four documents mentioned in the petition. According to the petitioner, those documents were mixed up with other documents and therefore, those documents were not filed along with the written statement. The respondent/plaintiff objected to mark document No.2, which is insufficiently stamped and unregistered sale deed.

<https://hcservices.courtservice.in/hcservices/>
3.The learned Judge considering the averments in the affidavit and counter-affidavit permitted the petitioner to mark documents 1, 3 and 4 and rejected the request of the petitioner with regard to document No.2. Against the said order, the present Civil Revision Petition is filed.



4.The learned counsel for the petitioner submitted that even insufficiently stamped and unregistered sale deed can be marked to refresh the memory of the witness. The learned Judge ought to have considered the marking of documents on payment of stamp duty with penalty.

5.Heard the learned counsel for the petitioner and perused the materials available on record.

6.Admittedly, document No.2 is insufficiently stamped and unregistered sale deed. The contention of the learned counsel for the petitioner is that the said document is to be marked to refresh the memory of the witness is untenable and unsustainable. The contention of the learned counsel for the petitioner is that the learned Judge ought to have marked document No.2 on payment of stamp duty with penalty has no force. No such contention was raised before the learned Judge or in the affidavit filed in support of the present petition. The learned Judge has considered all the materials on law properly and dismissed the application. There is no error or irregularity in the order passed by the learned District Munsif cum Judicial Magistrate, Pudukottai, warranting interference of this Court. Hence, this Civil Revision Petition is liable to be dismissed.

7.Accordingly, this Civil Revision Petition is dismissed. If really, the petitioner is willing to pay the stamp duty with penalty, it is open to the petitioner to take appropriate proceedings before the learned Judge. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(P&A)

/TRUE COPY/

Sub Assistant Registrar

To

The District Munsif cum Judicial Magistrate,
Thirumayam, Puthukottai District.

+1 cc to Mr.S.Jeyakumar, Advocate, SR.No:5583

ps

sva/jm/10.02.2017/2p/3c