



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) Nos.218 & 219 of 2017
and C.M.P (MD) No.968 of 2017

Gnanamani

... Petitioner/Petitioner/
Plaintiff in both C.R.Ps'

Vs.

1.A.Rajendran
2.R.Stella Mary

... Respondents/Respondents/
Defendants in both C.R.Ps'

COMMON PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, dated 18.11.2016 passed in I.A.Nos.529 of 2016 and 530 of 2016 in O.S.No.574 of 2011 on the file of the learned II-Additional District Munsif, Tiruchirappalli and allow the present CRP.

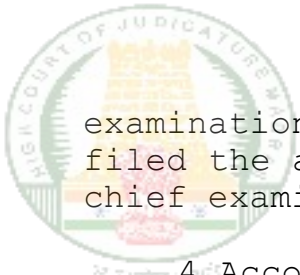
For Petitioner : Mr.R.Subramanian
(in both C.R.Ps')

COMMON ORDER

Since both the Civil Revision Petitions are interlinked with each other, common order is passed.

2.The petitioner has filed the above Civil Revision Petitions against the order, dated 18.11.2016 passed in I.A.Nos.529 of 2016 and 530 of 2016 in O.S.No.574 of 2011 on the file of the learned II-Additional District Munsif, Tiruchirappalli.

3.The petitioner is the plaintiff and the respondents are the defendants in the suit in O.S.No.574 of 2011 on the file of the learned II-Additional District Munsif, Tiruchirappalli. The petitioner has filed the said suit directing the respondents to execute a sale deed in respect of the suit property in favour of the petitioner for having received entire sale consideration from the petitioner, in case of failure to have the same done through the Court at the expenses of the respondents. The respondents filed written statement and trial commenced. Chief examination of the petitioner was completed on 04.11.2016 and it was posted for cross-



examination of the petitioner. In the mean time, the petitioner filed the applications in I.A.Nos.529 and 530 of 2016 to re-open the chief examination of the petitioner and to mark the document.

4. According to the petitioner, the document, dated 18.07.2005 is an agreement of sale and by mistake it was not marked earlier. The respondents filed counter-affidavit and submitted that on 04.11.2016, when the petitioner wanted to mark the document, the same was objected by them on the ground that it was an unregistered sale deed and subsequently, it was not marked.

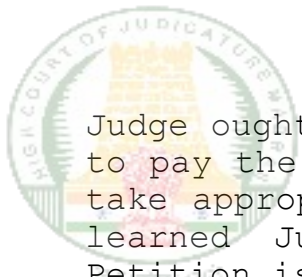
5. The learned Judge considering the averments made in the affidavit and counter-affidavit and also materials on record, especially the recital of the document, held that it is only an unregistered sale deed and the same cannot be marked and also re-open the chief examination of the petitioner and dismissed the applications. Against the dismissal of the applications, the present Civil Revision Petitions are filed.

6. The learned counsel appearing for the petitioner submitted that it is not correct to state that the document sought to be marked is an unregistered sale deed. It is only a recital. In any event, the learned Judge, even if the document is unregistered sale deed, ought to have impounded the same and direct the petitioner to pay stamp duty with penalty.

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

8. From the materials available on record, it is seen that the petitioner sought to mark the document, dated 18.07.2005 and according to the petitioner, it is only an agreement of sale. The respondent objected to the same on the ground that it is an unregistered sale deed and it is not an agreement of sale. The learned Judge, after going through the document, held that it is an unregistered sale deed and cannot be re-opened the chief examination of the petitioner and dismissed the applications. From the recital of the document, it is clear that it is only an unregistered sale deed and it is not stamped. The learned Judge, considering the Judgments relied on by the learned counsel for the parties, held that the Judgement relied on by the learned counsel for the petitioner is not applicable to the facts and circumstances of the present case and relied on the Judgment of the learned counsel for the respondents, dismissed the applications. The learned Judge has properly appreciated the facts of the case and rightly dismissed the applications. There is no error or irregularity in the order passed by the learned II-Additional District Munsif, Tiruchirappalli, warranting interference of this Court. Hence, these Civil Revision Petitions are liable to be dismissed.

9. Accordingly, these Civil Revision Petitions are dismissed. The learned counsel for the petitioner submitted that the learned



Judge ought to have impounded the document and direct the petitioner to pay the stamp duty with penalty. It is open to the petitioner to take appropriate proceedings for impounding the document before the learned Judge. No costs. Consequently, connected Miscellaneous Petition is also closed.

WEB COPY

Sd/-
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

The II-Additional District Munsif,
Tiruchirappalli.

+ 1 CC TO Mr.R.SUBRAMANIAN, ADVOCATE IN SR No. 5836

PS
TE/BS : 20/02/2017 : 3P/3C

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