



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

**CRP(MD) No. 396 of 2017 and
CMP(MD) .No.1972 of 2017**

1.D.Chandrasekaran
2.M.Selvarasu

Petitioners/Petitioners/
Plaintiffs

Vs

1.Rajasekaran
2.Shankar

Respondents/Respondents /
Defendants

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order dated 03.12.2016 passed by the Principal Subordinate Judge, Thanjavur in I.A.No.576 of 2016 in O.S.No.206 of 2011.

For Petitioners : Mr. A. Senthilkumar

ORDER

This Civil Revision Petition is filed to aside the order dated 03.12.2016 passed by the Principal Subordinate Judge, Thanjavur in I.A.No.576 of 2016 in O.S.No.206 of 2011.

2. The revision petitioner, who is the plaintiff filed suit in O.S.No.206 of 2011 on the file of the Principal Subordinate Judge, Thanjavur, for partition. The respondents, defendants filed written statement and are contesting the suit. The petitioners filed reply statement and the trial commenced. At that stage, the petitioners filed I.A.No.576 of 2016 for permission to mark the documents mentioned therein. According to the petitioners, the petitioners and respondents have orally partitioned on 23.06.2008 and all the parties have signed the document. Subsequently, the parties have executed the release deed and settlement deed and those documents were not registered. The respondents filed counter and opposed the said application, on the ground that signature in the said document are forged and denied the oral partition took place on 23.06.2008 and they have stated that the respondents did not sign in the document on 13.07.2011.



3. The respondents in the counter stated that the alleged document now sought to be marked are dated 23.06.2008 and 14.07.2011 and those documents are prior to filing the suit, which was filed on 12.08.2011 and the petitioners did not mention about those documents in the plaint and mentioned only in the reply statement which was filed only after commencement of trial. The documents cannot be looked into for collateral purpose also.

4. The learned Judge considering all the materials on record and the Judgments relied on by the counsel for the parties, dismissed the application holding that the documents cannot be looked into even for collateral purpose.

5. Against the said order of dismissal, the petitioners have filed the present revision.

6. The learned counsel appearing for the petitioners submitted that the learned Judge failed to see that suit for partition and not declaration that release deed and settlement deed are null and void. Un-registered document or xerox copy of the documents could be marked for collateral purpose subject to objection could be considered for collateral purpose for deciding the issue. The learned Judge failed to appreciate the Judgment of the Apex Court properly. He further submitted that the document ought to have been marked and relevancy of the document could be considered for collateral purpose and the petitioners should have been directed to pay the stamp duty after impounding the document.

7. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

8. The petitioners have filed suit in O.S.No.206 of 2011 on 12.08.2011. After commencement of trial, the petitioners filed application for permission to mark the documents dated 23.06.2008 and 14.07.2011 which are prior to filing of the suit. The petitioners have not mentioned those documents in the plaint averments and have not produced the same along with the plaint. The petitioners have also not explained as to why they have not taken any steps to mark the documents earlier. The respondents denied oral partition on 23.06.2008 and execution of the documents on 13.07.2011 and 14.07.2011 with regard to partition. The respondent contended that their signature in the said documents are forged. In view of the nature of the documents sought to be produced by the petitioners, it has been rightly held by the learned Judge that the same cannot be looked into even for collateral purpose.

9. The learned Judge has considered all the materials on record in a proper perspective and dismissed the application by giving cogent and valid reasons. In such circumstances, there is



no illegality or irregularity warranting interference by this Court.

10. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To

The Principal Subordinate Judge,
Thanjavur.

Trp
AE/SV MMS/SAR3/18.04.2017/3P/2C

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and CMP(MD) No. 1972 of 2017
03.03.2017