



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.02.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P. (MD) No.459 of 2016 (PD)
& C.M.P. (MD) No.1974 of 2016

1.Karthikeyan, S/o.Late. Ramalingam
2.Uma, W/o.Murugan

.. Petitioners

Vs.

1.Murugesan, S/o.Vellaichamy
2.Government of Tamil Nadu
Rep. by the District Collector,
Virudhunagar District.

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 19.01.2016, passed in I.A.No.1232 of 2015 in O.S.No.256 of 2010 by the learned District Munsif, Aruppukottai.

For Petitioners : Mr.V.Perumal

For R1 : Mr.S.Natarajan

For R2 : Mr.K.Maheshraja
Government Advocate

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 19.01.2016, passed in I.A.No.1232 of 2015 in O.S.No.256 of 2010 by the learned District Munsif, Aruppukottai.

2.The petitioners are the plaintiffs and the respondents are the defendants in the suit in O.S.No.256 of 2010 on the file of the District Munsif Court, Aruppukottai. The petitioners filed the suit for declaration and permanent injunction. The respondents filed separate written statements. The petitioners filed I.A.No.1232 of 2015 seeking to accept the unregistered partition deed, dated 27.10.1974 and to mark the same as exhibit 1. According to the petitioners, the said document is only a record of earlier oral partition, by which, their father's



vendor got the suit property. The petitioners sought to mark the said document for collateral purpose to prove their case.

3.The first respondent filed counter affidavit and resisted the same and submitted that the documents sought to be marked is in fact, a partition deed and it must be properly stamped and registered. The said document cannot be marked and relied on for collateral purpose also, as according to the petitioners, they purchased the property from one Parvathi, who in turn, got the property based on the said document.

4.The learned District Munsif, Aruppukottai, considering the plaint as well as the recitals of the document relied on, dismissed the application holding that the document sought to be marked is a partition deed only and the said document has to be properly stamped and registered and in view of the recital in the said document, it cannot be marked for collateral purpose also.

5.Against the said order of dismissal, dated 19.01.2016, the petitioners have come out with the present Civil Revision Petition.

6.I have heard the learned counsel appearing for the parties and perused the materials available on record.

7.From the materials on record, it is seen that the learned District Munsif has considered the averments made in the plaint and the recitals in the documents sought to be marked. On such consideration, the learned District Munsif has come to the conclusion that the document sought to be marked is only partition deed and not a record of earlier oral partition or family arrangement. The learned District Munsif also on consideration of recital in the document sought to be marked, held that possession was given to the petitioners' father's vendor and therefore, the same cannot be marked and relied on for collateral purpose also. The learned District Musnif has elaborately considered all the materials on record and the ratio laid down in the judgments relied on by the learned counsel for the parties, dismissed the application by giving cogent and valid reason. There is no irregularity or illegality in the said order warranting interference by this Court.

8.In result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

The suit is of the year 2010. The learned District Munsif, Aruppukottai, is directed to dispose of O.S.No.256 of 2010, as



expeditiously as possible, in any event, not later than
30.06.2017.

Sd/-
Assistant Registrar(Writ)

WEB COPY

/True Copy/

Sub Assistant Registrar

smn2

To

1.The District Munsif,
Aruppukottai.

2.The District Collector,
Virudhunagar District.

+1cc to Mr.S.Natarajan, Advocate Sr.No. 8695

+1cc to Mr.V.Perumal, Advocate Sr.No. 8725

JAM/28.02.17 /MR/3p-5c

C.R.P. (MD) No.459 of 2016 (PD)
& C.M.P. (MD) No.1974 of 2016
16.02.2017