

IN THE HIGH COURT OF JUDICATURE AT MADRAS**Date: 7.02.2018****CORAM****THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR****C.R.P.(PD) No.1993 of 2016 and C.M.P.No.10416 of 2016**

Nagarajan . . . Petitioner/Defendant

Vs.

Durairaj . . . Respondent/Plaintiff

This Civil Revision Petition is filed under Article 227 of Constitution of India against the order of the District Munsif, Ariyalur, dated 18.03.2016 made in I.A.No.229 of 2015 in O.S.No.342 of 2010 on the file of the Additional District Munsif, Ariyalur.

For Petitioner : Mr.C.Prabakaran
For Respondent : Mr.S.Kamadevan

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ORDER

According to the petitioner, the respondent has filed a suit in O.S.No.342 of 2010 against the petitioner before the learned Additional District Munsif, Ariyalur for declaration. In the aforesaid suit, the petitioner has filed an application in I.A.No.229 of 2015 under Order VIII Rule 3 C.P.C. to receive

the document viz., unregistered sale deed. However, the trial court dismissed the application. Challenging the said order, the present Civil revision petition has been filed before this Court.

2 According to the learned counsel for the petitioner, the said document has been filed before the court below only for the collateral purpose and the same can be received by the court below. Objection if any, can be raised at the time of trial. Therefore, the order of the court below is liable to be set aside.

3 Per contra, the learned counsel for the respondent has submitted that the court below has considered the document viz., unregistered sale deed relied upon by the petitioner. Prima facie, said document cannot be treated as sale deed and the same cannot be marked as document before the court below. The said document has been filed at the time of examination of the defendant side witnesses. The intention of the petitioner is only to drag on the suit proceedings. Therefore, the court below has rightly dismissed the application.

4 A perusal of record shows that the sale deed, dated 5.5.2003 wherein Rs.10/- stamp paper has been afixed in the sale deed. Further, the

present suit has been filed for declaration of title on the basis of registered sale deed, dated 13.9.2010. The title itself is disputed in the present suit by relying upon the unregistered sale deed for collateral purpose. The court below while rejecting the application referred to the judgment of this court in **Ramachandran & 3 others vs. Guruvi Reddy (2015(3) MWN (Civil) 366)** wherein this court held as under:

*“REGISTRATION ACT, 1908 (16 OF 1908),
Section 17 & 49 - Marking of unregistered document
for collateral purpose of proving possession - Suit for
declaration of title and recovery of possession filed
by the respondent/plaintiff in which petitioners/
defendants filed petition to mark unregistered
exchange deed for collateral purpose of proving
their possession - same was rejected. It has been
averred by petitioners that they have been in
possession since exchange deed dated 19.3.1908
came to be executed. They have specifically averred
that they have filed petition to receive Exchange
deed only for sole purpose of proving their
possession and further they have also stated that
they are not claiming any right/title/interest
pursuant to said exchange deed - Since collateral
purpose does not create any right or title.”*

D.KRISHNAKUMAR,J.

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5 In the light of the judgments of this court cited supra, there is no warrant to interfere with the order passed by the court below.

6 Accordingly, the Civil revision fails and the same is dismissed. The learned Additional District Munsif, Ariyalur is directed to dispose of the suit in O.S.No.342 of 2010 as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed.

07.2.2018

Speaking/Non Speaking order
Index: Yes/No
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To
The Additional District Munsif, Ariyalur.

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Further, the court below also cited the judgment of this court in 2015(2) T.N.L.J. 338 (MAD) wherein this court held as under:

“Registration Act, 1908 - Section 17 and 49 - Title of land - sought to be established under unregistered deed - Permission to mark it as an exhibit - Petitioner has not come out with collateral purpose for which document is sought to be used. Held. Purpose of production of document is to establish title, it cannot be accepted as a piece of evidence as is made inadmissible under Section 49 of Registration Act - Court below not committed any error or illegality in passing the impugned order in rejecting permission to mark said document as exhibit - Revision dismissed.”