

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.4852 of 2013
& M.P.No.1 of 2013

V.Krishnan

.. Petitioner

Vs.

C.Vimala

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 29.10.2013 made in I.A.No.350 of 2013 in O.S.No.37 of 2008 on the file of the District Munsif-cum-Judicial Magistrate's Court, Uthiramerur.

For Petitioner : Mr.Kumar

For Respondent : No appearance

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 29.10.2013 made in I.A.No.350 of 2013 in O.S.No.37 of 2008 on the file of the District Munsif-cum-Judicial Magistrate's Court, Uthiramerur.

2. The petitioner is plaintiff and respondent is defendant in O.S.No.37 of 2008 on the file of the District Munsif-cum-Judicial Magistrate's Court, Uthiramerur. The petitioner filed the said suit for declaration that the petitioner is the owner of 'B' schedule property and consequently, for a direction to the respondent to deliver vacant possession of the 'B' schedule property after demolishing the superstructure and the compound wall existing in 'B' schedule property. The respondent filed written statement and is contesting the suit. The trial commenced and the petitioner let in chief examination and marked documents. The respondent filed I.A.No.350 of 2013 under Order XIII Rule 3 C.P.C. for rejection of Ex.A3 dated 20.07.1984.

3. According to the respondent, Ex.A3 dated 20.07.1984 is an unstamped and unregistered rectification deed and it cannot be

marked and relied on by the petitioner. The said document was marked in her absence and therefore, prayed for rejection of the said document.

4. The petitioner filed counter affidavit and contended that the learned counsel for the respondent was present, when the document was marked and the counsel did not object to marking of the same and therefore, the respondent is not entitled to object to marking of the said document now. The said document is only an agreement to execute the rectification deed and the same can be marked. If any stamp duty is to be paid, the petitioner is willing to pay the same.

5. The learned Judge considering the averments made in the affidavit, counter affidavit and judgment relied on by the learned counsel for the respondent reported in **2010 (3) CTC 873 (T.Sivagnanam v. Thirugnanaprakash)**, allowed the application holding that an unstamped and unregistered document cannot be marked even for collateral purpose and rejected Ex.A3.

6. Against the said order dated 29.10.2013 made in I.A.No.350 of 2013 in O.S.No.37 of 2008, the present Civil Revision Petition is filed by the petitioner/plaintiff.

7. Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent and her name is printed in the cause list, there is no representation on behalf of the respondent either in person or through counsel.

8. The learned counsel for the petitioner reiterated the averments made in the counter affidavit filed in the above application and the contentions raised in the grounds of Civil Revision Petition. He further contended that Ex.A3 is a rectification deed dated 20.07.1984 and subsequently, on 04.09.2006, the rectification deed was registered as document No.1788 of 2006 before the Sub-Registrar Office, Uthiramerur. An unstamped and unregistered document can be marked and relied on for collateral purpose.

9. The above contention of the learned counsel for the petitioner that an unstamped and unregistered document can be

marked and relied on for collateral purpose is contrary to the well established judicial pronouncement. The said issue is no longer *res integra*. In the judgment of the Division Bench of this Court reported in **(2001) 1 MLJ 1 (A.C.Lakshmipathy and another v. A.M.Chakrapani Reddiar and others)**, it is held that insufficiently stamped and unregistered document cannot be admitted in evidence and a party cannot rely on the said document even for collateral purpose. The said judgment was followed in number of cases. When the document is inadmissible in evidence, other parties can at any point of time object to marking of the said document and seek rejection of said document.

10. As per Order XIII Rule 3 C.P.C., a party can object at any stage of the marking of unregistered document as inadmissible in evidence and seek rejection of the same. Only when a document, which is inadmissible in evidence, but admitted without following the procedure, other party is not entitled to object the marking of the same at later stage, if the said party is not objected at the time of marking of the document. In the present case, Ex.A3 is unstamped and unregistered document. The learned Judge has properly appreciated the facts and allowed the application by giving cogent

and valid reason. There is no irregularity or illegality warranting interference by this Court with the order of the learned Judge dated 29.10.2013.

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

02.03.2018

Index:Yes/No

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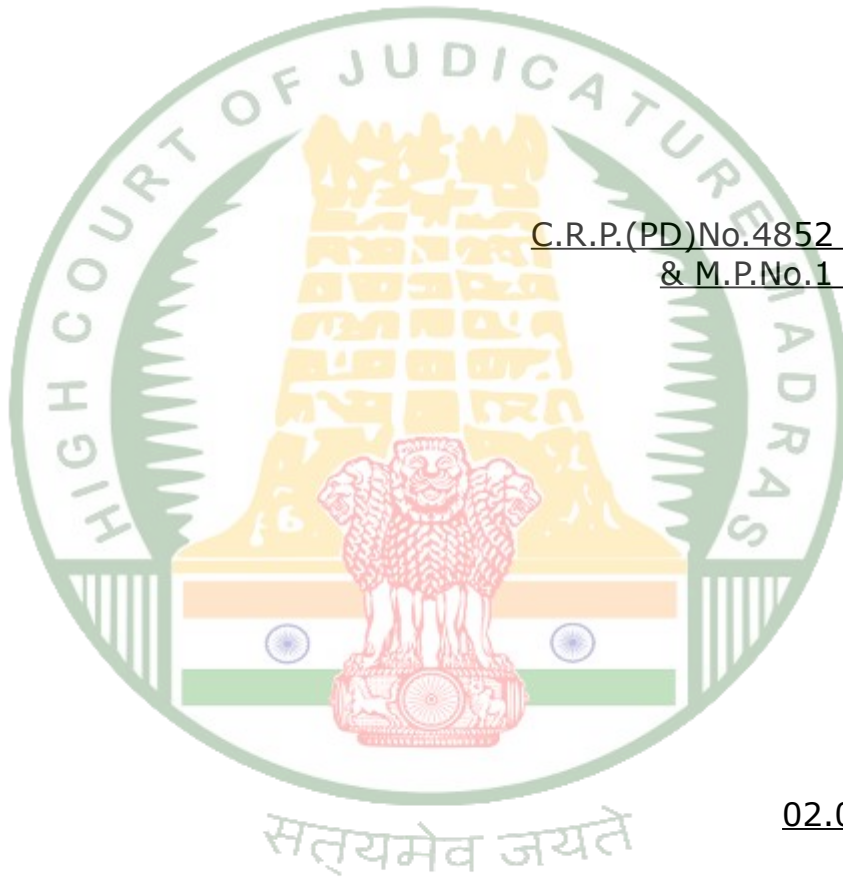
The District Munsif-cum-Judicial Magistrate's Court
Uthiramerur.



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V.M.VELUMANI, J.

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