



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 12.10.2018

Delivered On : 02.11.2018

CORAM

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THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P.(PD)(MD)No.1391 of 2015

and

M.P.(MD)No.1 of 2015

1.S.Selvaraj

2.S.Murugaraj

... Revision Petitioners /Petitioners/
Defendants

Vs.

Durairaj

... Respondent/Respondent/Plaintiff

Prayer : This Civil revision petition is filed under Article 227 of Constitution of India, to set aside the order passed in I.A.No.1721 of 2014 in O.S.No.275 of 2011 dated 27.01.2015 on the file of the Principal District Munsif Court Tenkasi and allow the Civil Revision Petition.

For Petitioners : Mr.T.S.Mohamed Mohideen

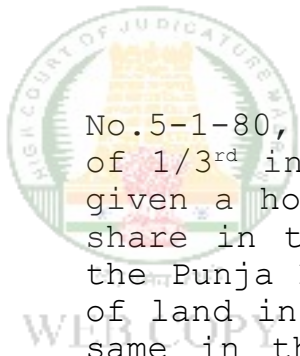
For Respondent : Mr.S.A.Ganapathy Raman

O R D E R

This petition is filed against the order passed in I.A.No.1721 of 2014 in O.S.No.275 of 2011 dated 27.01.2015 on the file of the learned Principal District Munsif, Tenkasi.

2.The petitioners are the defendants and the respondent is the plaintiff in the suit. The respondent filed a suit in O.S.No.275 of 2011 against the petitioners, seeking a prayer of 1/5th share in the suit properties. In the suit, the first and second defendants filed a petition in I.A.No.1721 of 2014 for receiving a document and the petition was dismissed by the Trial Court. Against the order of dismissal, the petitioners have filed this Civil Revision Petition.

3.On the side of the petitioners, it is stated that the petitioners and the defendants 3 and 4 are brothers and sisters and in the family partition, the first defendant got a house in Old Door



No.5-1-80, New Door No.60-1-60 and another house was given a share of $\frac{1}{3}^{\text{rd}}$ in the property of the father and the second defendant was given a house in Old Door No.5-1-180, New Door No.16-1-58 and $\frac{1}{3}^{\text{rd}}$ share in the Punja Land and the plaintiff was given $\frac{1}{3}^{\text{rd}}$ share in the Punja Land and instead of house the plaintiff was given 5 cents of land in addition to his share and the plaintiff has admitted the same in the family partition, dated 01.03.1999 and the plaintiff sold all these properties to various parties and subsequently, he has filed the suit. The petitioners got the original family arrangement deed recently and they filed a petition for marking the said document.

4.On the side of the respondent, it is stated that the family arrangement deed is against the Indian Evidence Act and against the Stamp Duty Act. It cannot be marked as an evidence and the documents is to be rejected.

5.On the side of the petitioners, it is stated that the plaintiff has admitted the oral partition and the Family Settlement deed in his cross examination and he has admitted the contents of the said document and he has admitted his signature in that document and it is stated that the petitioner is ready to pay the Stamp Duty with Penalty and prayed the document to be marked.

6.On the side of the petitioners, it is argued that an unregistered document can be admitted in evidence for collateral purpose and the document in question can be marked, if the deficit Stamp Duty together with the Penalty, is remitted. A judgment of this Court published in (2006) 4 M.L.J. 706 in Karuppannan Vs. Thavasiappan and another is cited.

7.On the side of the petitioners, it is further stated that an unregistered partition deed could be looked into for collateral purpose of proving division in status and subsequent separate enjoyment of parties, in a suit for partition, the Trial Court was not correct in rejecting unregistered partition deed, under which the properties were divided. A judgment of this Court published in (2012) 3 C.T.C. 160 in Venkatasubramaniya Chettiar (died) Vs. Perumal Chettiar is cited.

8.On the side of the respondent, it is argued that a family settlement document, which is an unstamped and unregistered deed is not admissible in evidence. A judgment of this Court (2010) 8 M.L.J. 666 in D.Sivagnanam Vs. Thirugnanaprakasham and others is cited.

9.A perusal of the deposition of P.W. 1, shows that P.W.1 has admitted an oral partition which was reduced into writing and he has also admitted his signature in the said document. Even otherwise, these documents can be used for collateral purposes. An opportunity for the petitioner to put forth his case is to be given.



11. In the above circumstances, these documents can be marked subject to payment of Stamp Duty and Penalty. With the above observation, this Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

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/True Copy/

Sd/-

Assistant Registrar (CS-I)

Sub Assistant Registrar (CS-III)

To

The Principal District Munsif ,
Tenkasi.

- 1 CC TO Mr.T.S.MOHAMED MOHIDEEN , ADVOCATE IN SR No. 94125.
- 1 CC TO Mr.S.P.GANAPATHY RAMAN , ADVOCATE IN SR No.94593.
-
- LS
- DS SKN SAR3 17 12 2018 3P 4C

order made in
C.R.P. (PD) (MD) No.1391 of 2015
02.11.2018