



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2018

CORAM:

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD).No.1051 of 2016

and

C.M.P. (MD).No.5241 of 2016

S.Ramamoorthy ... Petitioner/Respondent/Plaintiff

-vs-

1.M.Siva Shanmuganathan

2.K.Kandavel Balamurugan,
rep. by his power agent K.Kumar

3.M.Lakshmi

4.M.Hemamalini

5.S.Sujatha

6.M.Aiswarya

7.K.Murugesan ... Respondents/Petitioners/Defendants

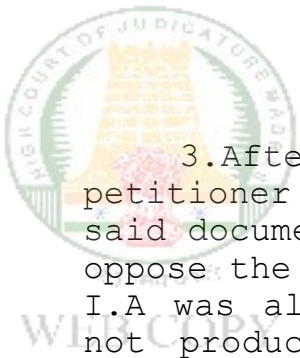
Prayer: Civil Revision Petition under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 23.01.2015 passed in I.A.No.681 of 2014 in O.S.No.179 of 2009 on the file of the I Additional District Judge, (PCR), Tiruchirapalli.

For Petitioner	:Mr.K.S.Sankhar Murali
For Respondents	:Mr.C.Vakeeswaran
	for Mr.T.A.Punithan for RR-1 to 7

ORDER

The revision petitioner is the plaintiff in O.S.No.179 of 2009 on the file of the I Additional District Judge, (PCR), Tiruchirapalli. It is a suit for partition and separate possession.

2. There are three items in the suit schedule. The revision petitioner claims first item alone. According to him, the said item was allotted in his favour under the registered Will executed by his grandfather Kandasamy Pillai. The suit was opposed by the defendants on several grounds. One of the grounds was that the said item had been orally sold to the 7th defendant upon receipt of a sum of Rs.50,000/-. Such stand has been specifically set out in paragraph No.12 of the written statement. In paragraph Nos.13 and 14 of the written statement, 7th defendant has also stated that the plaintiff has affixed as many as 55 signatures on all pages on 07.09.2001. They have been styled as "Memorial receipts".



3. After noting the stand of the 7th defendant, the revision petitioner herein filed I.A.No.242 of 2013 for production of the said documents. The contesting respondents herein did not choose to oppose the said I.A.No.242/13 and remained exparte. Hence, the said I.A was allowed. Even thereafter, the documents in question were not produced. After the trial commenced and made substantial progress, the contesting respondents filed I.A.No.681 of 2014 for reception of the said documents. The court below by an order dated 23.01.2015 allowed the said I.A. Questioning the same, the present Civil Revision Petition has been filed.

4. Heard the learned counsel appearing on either side.

5. The learned counsel appearing for the revision petitioner strongly contended that the documents in question require registration and that therefore, the court below erred in allowing the same by treating as a 'family arrangement'. He has also pointed out that the 7th defendant was none other than his own guardian. He expressed his apprehension that since the plaintiff was a partner with the 7th defendant, the signatures affixed by him in some blank papers would have been misused. He also contended that the documents in question were not filed along with the written statement. They were directed to be produced. More than anything else, there is no explanation in the affidavit filed in support of I.A.No.681 of 2014, as to where the said documents were all long.

6. The submissions of the revision petitioner were strongly controverted by the learned counsel appearing for the respondents.

7. After carefully considering the rival submissions, I am clearly of the view that the documents in question require registration. This is because the stand of the 7th defendant is that item No.1 was sold to him by the revision petitioner. In fact, it is stated that the plaintiff received a sum of Rs.50,000/- as consideration for transferring item No.1 to the 7th defendant. Therefore, such a transaction cannot be characterized as a family arrangement. That apart, as rightly contended by the learned counsel appearing for the revision petitioner, joint ownership is a condition precedent for any family arrangement. In this case, the stand of the plaintiff is that in the Will executed by his grandfather, item No.1 of the suit schedule was bequeathed to him. Therefore, there is no joint ownership in this case. When there is no joint ownership, there cannot be a family arrangement.

8. Looked at from any angle, the documents in question require registration. An unregistered document can be considered only for collateral purpose, that too subject to Section 35 of the Stamp Act.

9. The Court below has observed that the documents in question are subject to objections regarding admissibility and relevancy. These observations more than take care of the interest of the revision petitioner. Since the documents in question require



registration, they can only be used for collateral purpose and that too on payment of deficit stamp duty and penalty, as contemplated under Section 35 of the Stamp Act.

10.The Civil Revision Petition is allowed partly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar (CS-II)

To

The I Additional District Judge, (PCR),
Tiruchirapalli.

+1cc to Mr.T.A.Punithan, Advocate, SR.No. 82024

+1cc to Mr.SHANKAR MURALI, Advocate, SR.No. 82356

C.R.P. (MD) .No.1051 of 2016
04.09.2018

VS

KK/SKN/SAR-2/10.10.2018/3P-4C