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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) No.1331 of 2016

and

C.M.P. (MD) No.6348 of 2016

1.Chandrajothi

2.Subbulakshmi

3.Jegannathan (died)

..Revision Petitioners/Respondents/
Petitioners/Landlords

/Vs./

Radhakrishnan

.. Respondent/Petitioner/
Respondent/Tenant

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order, dated 01.08.2015 made in I.A.No.42 of 2015 in R.C.O.P.No.82 of 2010 on the file of the II Additional District Munsif, Trichy.

For Petitioners : Mr.Raguvaran Gopalan for Mr.K.Prabakar

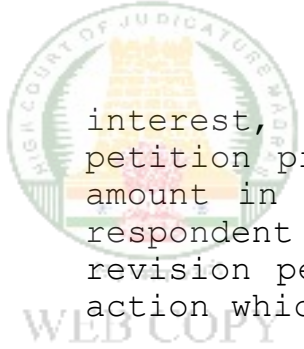
For Respondent : Mr.Lakshmi Gopinathan
for Folax Legal Solutions

ORDER

The petitioners in R.C.O.P.No.82 of 2010 on the file of the II Additional District Munsif, Trichy are the revision petitioners herein. The said R.C.O.P has been filed for evicting the respondent herein on the ground of willful default and own use and occupation. In the said Rent Control proceedings, the respondent herein filed I.A.No.42 of 2015 for marking a document, dated 15.12.2006 said to have been executed by the second revision petitioner. The Court below allowed the said I.A. by order dated, 08.02.2015. The correctness of the order is questioned in this Civil Revision petition.

2.Heard the counsel on either side.

3.The document in question is said to have been marked in another suit filed by the respondent herein. Therefore, certified copy of the document was obtained and sought to be marked in the present R.C.O.P proceedings. The court below has considered the said document as an agreement and therefore came to the conclusion that it has been correctly stamped and does not require any registration. I carefully read the contents of the said documents. It is seen that the document reads as if the second revision petitioner Subbu Lakshmi received a sum of Rs.5,00,000/- and in lieu of payment of



interest, the respondent herein has been allowed to be in the petition premises. The agreement between the parties was that the amount in question should be returned in two years. Till then the respondent need not be pay any rent for the premises. If the second revision petitioner failed to do so, she would submit to any legal action which the respondents may take.

4.I am unable to appreciate the approach of the Court below. The document in question is not an agreement, it is to be characterised as Othi. Therefore, it obviously requires registration. But even an unregistered document can be marked as an evidence for collateral purpose. Therefore permitting the respondent to mark the said document cannot be objected to. But then since this court has come to the conclusion that it is not an agreement but othi, Section 35 of the Stamp Act will come into play. Therefore, reserving the rights of the revision petitioner to raise their objections with regard to the use to which the document may be put in the present R.C.O.P and subject to Section 35 of the Stamp Act, the order in question is affirmed.

5.In other words, on payment of deficit stamp duty and penalty in terms of Section 35 of the Stamp Act, the document can be marked and the evidentiary value can be decided in the main proceedings.

6.This Civil Revision petition is disposed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-I)

To

The II Additional District Munsif,
Tiruchirappalli.

+1CC to Mr.K.Prabakar, Advocate, SR.No.81601

C.R.P. (PD) (MD) No.1331 of 2016
31.08.2018

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