



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (MD)No.1840 of 2016 (PD)
and
CMP(MD)No.8854 of 2016

1.S.A.Anthony
2.A.Rose Mercy
3.A.Isabella

... Petitioners/Plaintiffs

Vs.

1.S.A.Joseph
2.S.A.Lawrence

... Respondents/Defendants

Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Ex-order and fair order, dated 01.06.2016 made in I.A No.119 of 2016 in O.S No.14 of 2012 on the file of the District Munsif cum Judicial Magistrate, Bodinayakkanur.

For Petitioners : Mr.R.Suriyanarayanan
For Respondents : Mr.R.Shankar Ganesh

ORDER

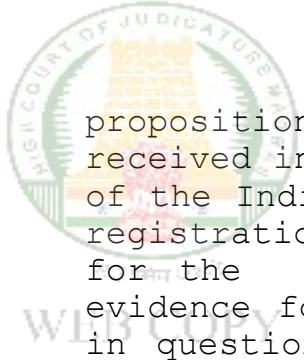
The plaintiffs in OS No.14 of 2012 on the file of the District Munsif cum Judicial Magistrate, Bodinayakkanur are the revision petitioners herein. It is a suit is for partition. In the said suit, defendants 1 and 2 filed I.A No.119 of 2016 under Section 35 of the Indian Stamp Act, 1899 in respect of a document dated 27.03.1985. The said I.A was allowed by the court below by order 01.06.2016. The correctness of the said order is under challenge in this civil revision petition.

2.Heard the learned counsel on either side.

3.The learned counsel for the revision petitioners placing reliance on the decisions reported in **1996 (1) CTC 541 (Rajamanickam vs. Elangovan)** and **2018 - 3 - LW 623 (Sita Ram Bhama vs. Ramvatar Bhema)**, contended that the order impugned in this civil revision petition deserves to be set aside. Per contra, the learned counsel for the respondents wanted this Court to follow the ruling reported in **2013 -1- LW - 87 (Easwari vs. Duraisamy)**.

<https://hccasesetion.sgo.in/hccasesetion/>

4.There can no longer be any doubt regarding the legal



propositions. Un-stamped or not duly stamped document can be received in evidence only if it is impounded in terms of Section 35 of the Indian Stamp Act, 1899. But then, a document that requires registration if not registered can never be received in evidence for the primary purpose. Of course, it can be received in evidence for collateral purpose. In the present case, the document in question is a deed of relinquishment. Therefore, it requires registration. Hence, even while sustaining the order impugned in this civil revision petition, this Court has to clarify that the court below cannot permit the usage of the said document in evidence for the primary purpose.

5. With this clarification, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-III)

To

The District Munsif cum Judicial Magistrate,
Bodinayakkanur.

+ 1 CC TO Mr.R.SURIYA NARAYANAN, ADVOCATE IN SR No. 80077
+ 1 CC TO Mr.R.SHANKAR GANESH, ADVOCATE IN SR No. 80585

SKM

TE/RSK/SAR-3 : 19/09/2018 : 2P/4C

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