



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.10.2018
CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) .No.1660 of 2018

WEB COPY

Seenivasan ... Petitioner/Petitioner/ Plaintiff
Vs.
Kandasamy ... Respondent/Respondent/ Defendant

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 09.04.2018 passed in I.A.No.73 of 2018 in unregistered O.S.No. Of 2017 (G.L.No.8734) on the file of the Subordinate Judge, Sankarankovil and allow the present Civil Revision petition.

For Petitioner : Mr.L.Prabhu
For Respondent : Mr.M.Maharaja

ORDER

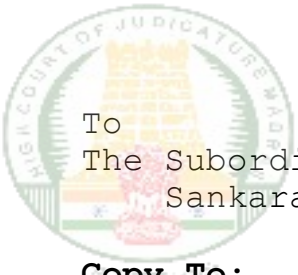
The Revision petitioner herein filed a plaint before the Court below for recovery of a certain sum of money from the respondent herein. The suit was laid on the strength of an unregistered mortgage deed. Therefore, I.A.No.73 of 2018 was filed under Section 35 of the Indian Stamp Act for impounding of the said document for payment of deficit stamp duty and penalty. The Court below however has chosen to hold that the suit itself is not maintainable and the same is liable to be rejected. In that view of the matter, I.A.No.73 of 2018 was dismissed as infructuous. The same is questioned in this Civil Revision petition.

2. I am of the view that inasmuch as the plaint itself came to be rejected on the ground that the suit itself was not maintainable, the same would amount to a decree. Therefore, an appeal would lie and this Civil Revision petition is not maintainable.

3. This Civil Revision petition is closed, accordingly. Liberty is given to the Revision petitioner to file first appeal before the competent Court. No costs.

Sd/-
Assistant Registrar(P&A)

/True Copy/



To
The Subordinate Judge,
Sankarankovil.

Copy To:

The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. **(2 Copies)**

+1CC to Mr.L.Prabhu, Advocate, SR.No.89638
+1CC to Mr.M.Maharaja, Advocate, SR.No.89583

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PMU
ES/RP/SAR 4/12.11.2018/2P/6C