



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (PD) (MD)No.2051 of 2018

and

CMP (MD)No.9054 of 2018

Solaimalai

...Petitioner/Petitioner/
1st Defendant

Vs.

Arumugam

...Respondent/Respondent/
Plaintiff

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 20.02.2018 passed in I.A No.480 of 2017 in O.S No.497 of 2012, on the file of the I Additional Subordinate Judge, Madurai.

For Petitioner: Mr.Subbiah, Senior Counsel
for Mrs.P.Jessi Jeeva Priya

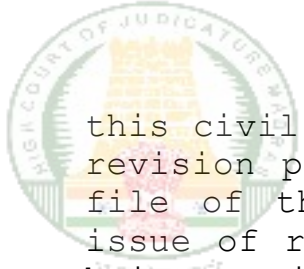
For Respondent: Mr.S.Andand Chandresekar

ORDER

The first defendant in O.S No.497 of 2012 on the file of the I Additional Sub Judge, Madurai is the revision petitioner herein. It is a suit for partition and separate possession. In the said suit, the revision petitioner filed I.A No.480 of 2017 under Order 8 Rule 1 A (3) for receiving in evidence as many as four documents. No doubt, these documents are referred to in the revision petitioner's earlier pleadings. But then, the court below noted that only 1 out of the 4 documents is registered and the other three are not registered documents. In that view of the matter, the court below had permitted only the registered document alone to be received in evidence. In respect of the other three documents, the I.A was rejected. Questioning the same, this civil revision petition has been filed.

2.Heard the learned Senior Counsel appearing for the revision petitioner and the learned counsel appearing for the respondent.

3.This Court is of the view that the court below ought not to have refused to receive the three documents in question merely on the ground that they are not registered. The order impugned in



this civil revision petition insofar it is to the prejudice of the revision petitioner is set aside. The matter is remitted to the file of the court below. The court below shall consider the issue of receiving the remaining three documents in evidence upon being satisfied as to whether they have been duly stamped and registered. It is seen that the revision petitioner seeks to adduce secondary evidence. But then, he will have to satisfy the parameters set out in Section 66 of the Evidence Act.

4. With these observations, the order impugned in this civil revision petition is set aside to the extent it is against the revision petitioner and the matter is remitted to the file of the court below for fresh consideration. This civil revision petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar (CS-III)

To

The I Additional Subordinate Judge,
I Additional Subordinate Court, Madurai.

+ 1 CC TO M/s.SARBHAUMAN ASSOCIATES, IN SR NO.87446
+ 1 CC TO MRs.P.JESSI JEEVA PRIYA, ADVOCATE IN SR NO.87759

skm

BU/PM/SAR-III : 31.10.2018 : 2P/4C

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