



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 09.01.2018

DELIVERED ON : 27.03.2018

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P(MD)No.1644 of 2011
and M.P(MD)No.1 of 2011

1.V.Seethalakshmi
2.P.Nagarathinam (Died)
3.G.Rajeswari
4.G.Umadevi
5.P.Thiagarajan
6.P.Jayaseeli

... Petitioners/Respondents/Plaintiffs

(Petitioners 5 and 6 are brought on records as Lrs of the deceased 2nd petitioner vide Court order dated 08.11.2013 in M.P.No.1 of 2012)

Vs.

R.Dharmaraj

... Respondent/Petitioner/2nd Defendant

PRAYER: Civil Revision Petition filed under Article 227 Constitution of India, to set aside the fair and decreetal order dated 07.06.2011 made in I.A.No.386 of 2011 in O.S.No.238 of 2002 on the file of Additional District Munsif, Tiruchirapalli and allow the above Civil Revision Petition.

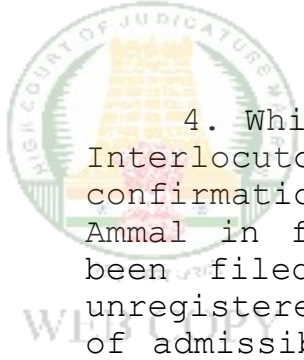
For Petitioners : Mr.P.Thiyagarajan
For Respondent : Mr.T.V.Sivakumar

O R D E R

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 07.06.2011 made in I.A.No.386 of 2011 in O.S.No.238 of 2002 on the file of Additional District Munsif, Tiruchirapalli.

2. The suit in O.S.No.238 of 2002 has been filed for the relief of permanent injunction.

3.The plaintiff has stated that her husband was enjoying the suit property as cultivating tenant and the owner is Dharmapuram Adheenam, Mayiladuthurai. After the death of plaintiff's husband, the plaintiff became the cultivating tenant as the legal heir of deceased husband and she has been paying rent as cultivating tenant for the suit land to the landlord.



4. While the suit is pending, the second defendant has filed an Interlocutory Application in I.A.No.386 of 2011 to mark the deed of confirmation and transfer of lease, which was executed by Andal Ammal in favour of the second defendant. The counter has already been filed before the Trial Court. The said document was an unregistered one. But the trial court, without going to the aspect of admissibility of the document, allowed the petition by giving a finding that the admissibility can be decided at the time of evidence and arguments.

5. The learned counsel appearing for the petitioners/plaintiffs stated that the document is an unregistered document and the petition filed by the respondent/second defendant is to mark the deed of confirmation and transfer of lease under Section 151 of C.P.C and therefore, the trial court ought not to have allowed the petition. When the suit was filed claiming that he is a lesee, the document should be a proper one and the unregistered document is inadmissible in evidence.

6. The learned counsel for the respondent/second defendant would submit that since the document is an agricultural lease, the same need not require registration or stamp duty and the said document is filed only for the purpose of proving the possession and the trial court has rightly allowed the application.

7. Heard both sides and perused the entire records.

8. It is perused from records that the case is posted for defendants side evidence and the document has been just received. The purpose of the respondent/third defendant is to mark the document since it is a deed of confirmation and transfer of lease.

9. Considering all the above stated facts, I am of the view that since the case is at the stage of defendant's evidence and even an unregistered document can be received. The admissibility of the document need not be discussed at this stage. The admissibility of the document will be proved only by examination of the parties and receiving of the said document and proceeding further in the case will not any way cause prejudice to the plaintiffs. Hence, the order of the trial court does not require any interference.

10. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar



To

The Additional District Munsif, Tiruchirapalli.

+1cc to M/S.P.Thiyagarajan, Advocate SR.No. 58839

+1cc to M/S.T.V.Sivakumar, Advocate SR.No. 58090

Judgment made in
C.R.P(MD)No.1644 of 2011 (PD)

and
M.P(MD)No.1 of 2011

27.03.2018

cm

JM/KKR/SAR 3/16.04.2018/3P/4C