

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.04.2019

Coram:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.(PD)Nos.872 and 1195 of 2010
and M.P.Nos.1 & 1 of 2010

C.R.P.(PD)No.872 of 2010

M.Rajagopal

..

Petitioner

versus

1.The Thiruvoteeswarar Hindu
Janopakara Nidhi Ltd.,
having its registered Office
at Old No.36, New No.50,
Kuppu Muthu Street,
Thiruvateeswaranpet,
Chennai - 600 005.

2.M/s.Balajee and Company,
Auctioneers, having office at
Room No.9, II Floor,
No.160, Thambu Chetty Street,
Chennai - 600 001.

सत्यमेव जयते

Respondents

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the order dated 01.02.2010 made in I.A.No.15536 of 2008 in O.S.No.7522 of 2005 on the file of the IV Additional Judge, City Civil Court, Chennai.

For Petitioner	: Mr.P.Sunil
For Respondent No.1	: Mr.V.Manohar
For Respondent No.2	: No Appearance

C.R.P.(PD)No.1195 of 2010

The Thiruvoteeswarar Hindu
Janopakara Nidhi Ltd.,
having its Registered Office
at Old No.36, New No.50,
Kuppu Muthu Street,
Thiruvateeswaranpet,
Chennai - 600 005.

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For Petitioner : Mr.V.Manohar
For Respondent No.1 : Mr.P.Sunil
For Respondent No.2 : No Appearance

सत्यमेव जयते

COMMON ORDER

Since the issue involved in both the Revisions are one and the same, a common order is being passed to dispose of these Revisions.

2. The first defendant has filed the Revision [C.R.P.[PD] No.872 of 2010] as against the order of the trial Court in receiving his document of memorandum of hypothecation requires stamp duty whereas the plaintiff has filed the Revision [C.R.P.[PD] No.1195 of 2010] challenged the order of the trial Court holding that the document is not required stamp duty. The orders impugned in both CRPs are relating to the Memorandum of deposit of title deeds dated 05.08.1996.

3. It is the contention of the first defendant that it is the equitable mortgage which requires registration whereas it is the contention of the plaintiff that it does not require registration.

4. I have perused the document. On perusal of the document makes it clear that it is only a Memorandum of depositing title deeds to create a collateral security, there is no bargain whatsoever in the document to bring the same as a deposit on title deeds for making it compulsory registration. In this regard, it is useful to refer the judgment of the Honourable Apex Court in ***United Bank of India Limited Vs. Messrs Lekharam Sonaram and Co. and Others*** reported in ***AIR 1965 in Supreme Court 1591*** wherein it has been held that in the absence of essentials of the mortgage in the letter confirming the

deposit of title deeds, the same does not require any registration. Similarly, in *State of Haryana and Others Vs. Navir Singh and others* reported in **2013 (6) CTC 234**, the Full Bench of Honourable Apex Court has held that memorandum recording mortgage by deposit of title deeds was a mere document recording transaction and did not create/extinguish any right or liabilities, payment of stamp duty and registration of the same is not compulsory.

5. Considering the aforesaid judgments, I am of the view that the order of the trial Court holding the stamp duty is required to be set aside and accordingly, the order passed in I.A.No.15536 of 2008 in O.S.No.7522 of 2005 dated 01.02.2010 is hereby set aside. Consequently, the Revision filed by the first defendant in C.R.P.[PD] No.872 of 2010 is dismissed and the Revision filed by the plaintiff in C.R.P.[PD] No.1195 of 2010 is allowed. Consequently, connected Miscellaneous Petitions are closed. No costs.

04.04.2019

Speaking Order/Non Speaking Order
Index : Yes / No
Internet : Yes
sri

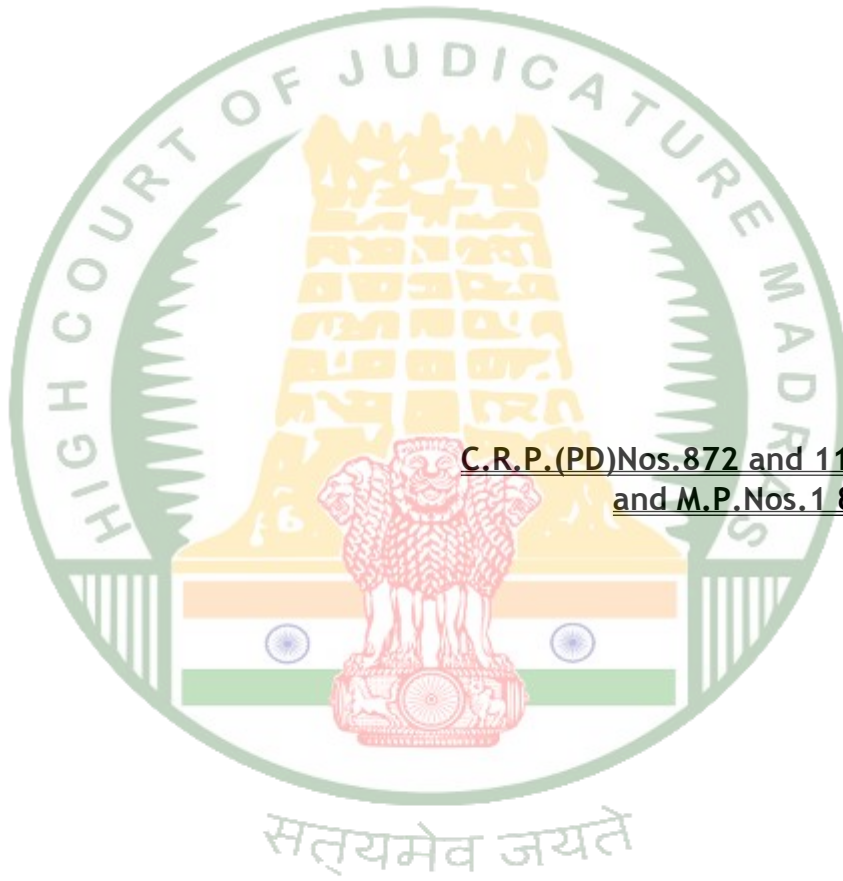
To

The IV Additional Judge,
City Civil Court,
Chennai.



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N.SATHISH KUMAR, J.,
sri



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and M.P.Nos.1 & 1 of 2010

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