

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:03.04.2019

CORAM

The Hon'ble Mr.Justice N. SATHISH KUMAR

C.R.P.(PD).No.1 of 2006

and

C.M.P.Nos.34 of 2006 & 135 of 2012

Ganesan

.. Petitioner/Petitioner

vs.

1.Jayaperumal

2.Pachaimuthu

3.Kanjamalai

4.Pachaiammal

.. Respondents/Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order of the learned Additional District Munsif, Gingee dated 03.06.2005 made in unnumbered I.A. in O.S.No.215 of 1990.

For Petitioner : Ms.G.Sumitra

For Respondent No.2 : Mr.G.Rajan

O R D E R

This Civil Revision has been filed against the order of the trial court in dismissing the application filed by the petitioner/plaintiff seeking to file additional documents, namely, 'koorchits' to prove the partition. The Trial Court, after taking note of the fact that, the documents were incomplete and some of the pages were removed and since the alleged documents contains an unregistered partition deeds which cannot be received as an evidence, has rejected the said plea. As against which, the present revision has been filed by the plaintiff.

2. Learned counsel appearing for the revision petitioner contended that, some of the documents have been registered and the stamp duty has also been duly paid. Consequently, all those documents were pertinent to raise entire issue.

3. Per contra, learned counsel appearing for the

respondents would contend that, the documents sought to be relied upon were unregistered one and even if it is taken into account, as an family arrangement, the same should be stamped and properly registered. Hence, Trial Court has rightly rejected the application.

4. From perusal of the documents, it is seen that the documents sought to be marked by the plaintiff/petitioner though unregistered partition deeds, for the purpose of establishing his right and possession in the suit, which was filed for declaration and injunction, these documents were filed.

5. Admittedly, the documents sought to be received as additional documents were partition deeds, which declare and create right over the property. Further, the first page of the certain document is also not found. Under Section 17 of Indian Registration Act, a document cannot be used for any other purposes, if it is an unregistered one although, the proviso of the Section 49 of the Indian Registration Act enables the party, to use the unregistered document for collateral transaction. Hence, the Trial Court has rightly rejected the application.

6. In the case on hand, since the suit itself has been filed for declaration and documents sought to be marked herein were with regard to proving of their substantial right as they are unregistered one, those documents cannot be used for any collateral transaction. Hence, I am of the considered view that, those documents cannot be admitted.

7. In view of the above, this Civil Revision petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed. However, it is open for the revision petitioner to file some other application in respect of registered documents before the Trial Court.

Sd/-

Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

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To

The Additional District Munsif, Gingee

+1 cc to M/s.G.Sumitra, Advocate, Sr.No. 32209

+1 cc to Mr.G.Rajan, Advocate, Sr.No. 32383

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CSL/19.06.2019