

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 28.06.2019

ORDER PRONOUNCED ON : 15.07.2019

CORAM:

THE HONOURABLE Mr. JUSTICE C. SARAVANAN

**C.R.P.(PD).No.1337 of 2015
and
M.P.No.1 of 2015**

1.C.Sathish Kumar

2.M.Sundaramurthy

...Petitioners/Plaintiffs

Vs

1.Karuthiruman

2.Kamala

...Respondents/Defendants

PRAYER Civil Revision Petitions filed under Article 227 of the Constitution of India as against the petition and orders dated 01.12.2014 made in I.A.No.1008 of 2014 in O.S.No.172 of 2011 on the file of the learned District Munsif Court, Sathyamangalam.

For Petitioners : Mr.N.S.Suganthan for
Mr.N.Manokaran

For Respondents : Mr.K.Sudakar for
Mr.V.P.Karthikeyan for R1 & R2

ORDER

The Petitioners are aggrieved by the impugned order dated 11.04.2012 passed by the learned District Munsif, Sathyamangalam

in I.A.No.1008 of 2014 in O.S.No.172 of 2011, in the present Civil Revision Petition.

2.The petitioners are the plaintiffs in the suit. The suit was filed for a permanent injunction. In the suit, the respondents had also filed their written statement. Thereafter, the petitioner also filed a reply statement.

3.After the trial commenced, witnesses on the side of the petitioners were examined. Later Dw.1 was examined and 3 documents were marked and time was granted till 11.10.2014. However, no further document was marked on that date. Thereafter, the suit was adjourned to 15.10.2014.

4.D.W.1's evidence was closed and the case was adjourned to 27.10.2014 for further witnesses. As there was no representation on the said date, the defendants' evidence was also closed on 29.10.2014.

5.Thereafter, within two days, the respondents filed two Interlocutory Applications.

6.I.A.No.1007 of 2014 was filed to mark additional documents, while I.A.No.1008 of 2014 was filed to accept the Stamp Duty as Penalty for marking the documents. These applications were contested by the plaintiffs stating that those documents cannot be marked as they are fabricated and forged documents.

7.These were described as letters of undertaking in the written statement. The respondents had also undertaken to file the original copy of the same before the Court in the written statement.

8.The Court below after recording the submissions of both the parties, held that without completing the evidence of DW.1, the evidence would be of no use in deciding the suit and therefore, the application filed by the respondents herein in I.A.Nos. 1007 and 1008 of 2019 were allowed for marking of documents and for examination of further witnesses by the District Court.

9.Aggrieved by the respective orders, the petitioners(plaintiffs) have filed the present Civil Revision Petition.

10. The learned counsel for the petitioners drew the attention of this Court to the decision rendered by the Hon'ble Supreme Court in the case ***Bagai Construction Vs. Gupta Building Material Store***, reported in (2013) 14 SCC 1, wherein while dealing with a somewhat similar situation, the Hon'ble Supreme Court concluded that the applications filed under similar circumstances were rejected.

11. The learned counsel also referred to the decision rendered by the Hon'ble Supreme Court in the case ***Avinash Kumar Chauhan Vs. Vijay Krishna Mishra***, reported in (2009) 2 SCC 532, wherein, unstamped documents were not allowed to be marked. In this connection, the learned counsel drew attention to paragraph no.22, wherein, it was held that Section 33 of the Stamp Act, Casts a statutory obligation on all the authorities to impound a document. The court being an authority to receive a document in evidence is bound to give effect thereto. The unregistered deed of sale was an instrument which required payment of the Stamp duty applicable to a deed of conveyance. Adequate stamp duty admittedly was not paid. The Court, therefore, was empowered to pass an order in terms of Section 35 of the Act.

12.The learned counsel also drew the attention of this Court, to yet another decision rendered by the Hon'ble Supreme Court in the case **Chinnammal and others Vs. Thangavel and another**, reported in 2013 (2) MWN (Civil) 27, wherein, specifically it was held that the document cannot be marked and reference was made to 49 of the Registration Act.

13.Per contra, the learned counsel for the petitioner submitted that there is no delay on the part of the respondents in filing applications. Further order passed in I.A.No.1007 of 2014 has been accepted and has not been challenged. The challenge to order in I.A.No.1008 of 2014 was thus became illusory.

14.The learned counsel for the first respondent submitted that the issue is squarely covered by the decisions rendered by this Court in the case of **Karuppannan Vs. Thavasiappan and others**, reported in C.R.P.PD.No.245 of 2005 (para 8) and in the case of **Subramaniam Vs. Gunasundari and others**, reported in C.R.P.PD.No.1526 of 2006.

15. Heard learned counsel for the petitioner Mr. N.S.Suganthan and Mr. K.Sudakar for the respondent. The impugned order passed in I.A.No.1008 of 2014 in O.S.No.172 of 2011 alone has been challenged.

16. By the impugned order, the learned District Munsif Court at Satyamangalam has permitted the respondents (defendants in the suit) to pay stamp duty on the documents which the respondents wanted to mark. Only permission has been granted to pay the stamp duty. The proof, admissibility, relevancy of the documents has not been decided. Therefore, there is no merits to its challenge. Further, the interest of the petitioner has also been taken care by awarding cost.

17. There is also no effective challenge to the order passed in I.A.No.1007 of 2014 filed by the respondents to mark the documents and for examination of the witness.

18. Thus, there is a half-hearted attempt to challenge the

order passed in I.A.No.1008 of 2014 in O.S.No.172 of 2011 alone in the present Civil Revision Petition.

19. Therefore, I do not find any infirmity in the order passed by the District Munsif Court, Satyamangalam in allowing the applications filed by the respondents (defendants). I find no merits in the present Civil Revision Petition.

20. It is noticed that the suit is of year 2011 and has been kept pending in view of the pendency of the present Civil Revision Petition. The District Munsif Court, Satyamangalam is further directed to dispose the suit within a period of six months from the date of receipt of a copy this order.

21. The present Civil Revision Petition is therefore dismissed with the above observations. No cost. Consequently, connected miscellaneous petition is closed.

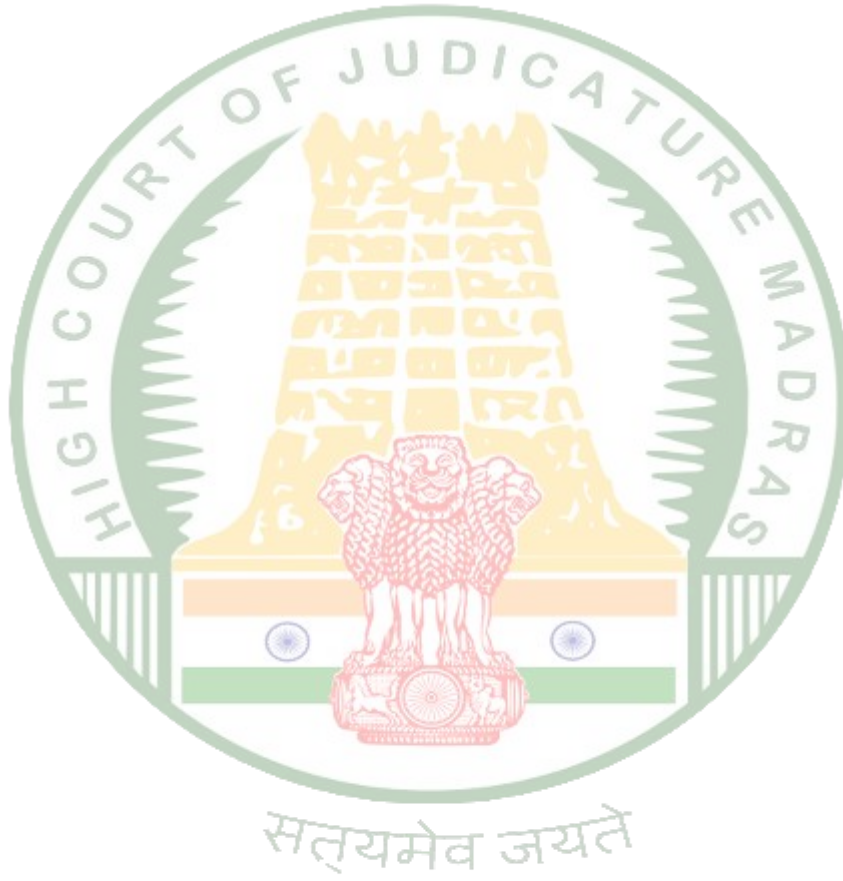
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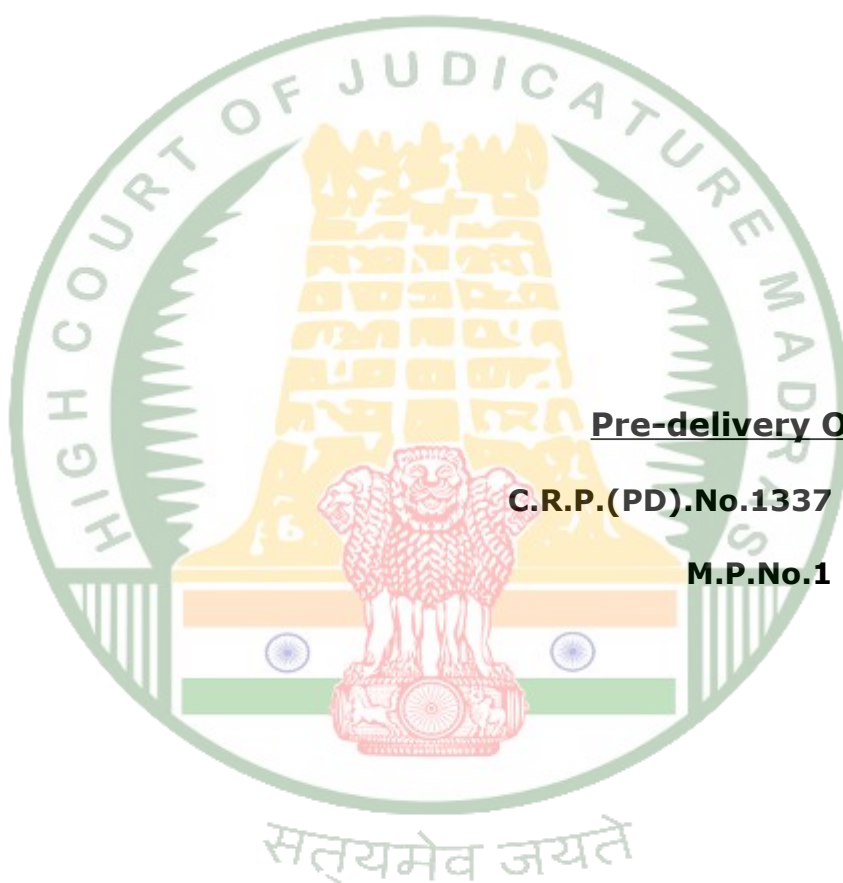
The District Munsif Court,
Sathyamangalam.



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C.SARAVANAN., J.

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Pre-delivery Order in

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