

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.R.P(PD)No.3310 of 2013
and
M.P.No.1 of 2013

Kandasamy

.. Petitioner

Vs.

Ramasamy

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 04.06.2013 made in I.A.No.351 of 2013 in O.S.No.471 of 2004 on the file of the Principal District Munsif Court, Tiruchengode in respect of Doc.No.2, by allowing this Civil Revision Petition.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.M.S.Palaniswamy

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 04.06.2013 made in I.A.No.351 of 2013 in O.S.No.471 of 2004 on the file of the Principal District Munsif Court, Tiruchengode in respect of Doc.No.2.

2. Aggrieved over the order passed by the trial Court, by rejecting one of the document said to be the Panchayat Muchalika dividing the suit properties the present Civil Revision Petition has been filed.

3. The suit in O.S.No.1449 of 2002 filed for partition and separate possession was filed in the year 2002. The revision petitioner is the sole defendant in the above suit. The defendant has filed an application in I.A.No.351 of 2013 in O.S.No.1449 of 2002 filing for additional documents in Exhibits B11 to B13 under Order 8 Rule 14 and Section 151 C.P.C. The trial Court permitted the defendant to file two other documents except the Panchayat Muchalika, on the ground that the unregistered documents cannot be filed, which is not admissible in proceedings, against which the present civil revision petition has been filed.

3. The learned counsel appearing for the revision petitioner would contend that rejecting all the documents on the ground that the same are unregistered and unstamped is not valid, and the trial court ought to have accepted the documents under Section 33 of the Stamp Act for collection of necessary stamp, but

without resorting to the said procedure, rejected the suit documents, in effect, and hence, prays for allowing the revision petition.

4. The learned counsel appearing for the respondent would submit that the so called Panchayat Muchalika is a created document. There is no whisper of nor the date of the year 2003. There was not even a mention in his pleadings filed as early as in the year 2003. But, the above documents have been introduced only in the year 2010 and therefore, submitted that the trial court has rightly rejected the application and said documents. Hence, submitted that those documents cannot be taken as evidence, and Section 33 of the Stamp Act cannot be applied for such created documents.

5. I have perused the order of the trial court. The trial court having admitted two other documents filed by the revision petitioner, has rejected the Panchayat Muchalika which creates right of the parties, on the ground that the same is unregistered and is not admissible in evidence.

6. It is well settled that if any document which creates a rights of the presentee has not been registered, the same is

inadmissible in evidence. Normally, when the documents are unregistered and not properly stamped, the Court would impound the documents and thereafter, refer the documents for collection of stamp duty.

7. Whereas in this case, the document sought to be marked is introduced after 10 years of the suit. The document clearly indicate as if the rights have been created in favour of the presentee. The revision petitioner admittedly, filed a written statement in the year 2003, and there is no whisper whatsoever made in the plaint as to existence of this document. There is no pleadings with regard to the existence of any arrangement which contained in the document and he has introduced the documents after 10 years. Since, the very document itself is introduced as later part and in fact which appears to declare or create a right over the immovable property, without such document being registered, the same cannot be accepted as an evidence. The Court may not follow the procedure for impounding such document in all cases, when the very existence of document itself is doubtful.

8. Therefore, the contention of the revision petitioner, that the trial Court ought to have impounded such document, cannot be countenanced. Hence, this Court does not find any infirmity or illegality in the order passed by the Courts below and the trial Court is directed to dispose of the suit within three months from the date of receipt of a copy of this order.

9. With the above directions, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

11.02.2019

Index: Yes/No

Speaking/ Non-Speaking

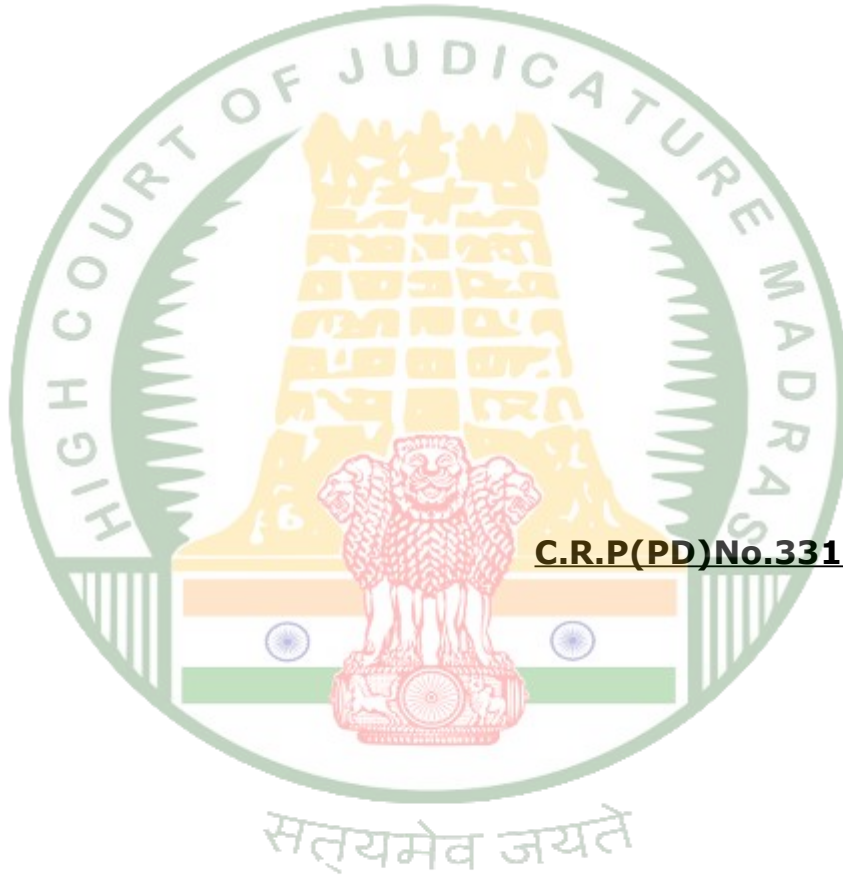
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To

1. The Principle District Munsif Court, Tiruchengode.
2. The Section Officer, VR Section, Madras High Court.

N.SATHISH KUMAR, J.

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