

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD)No.2371 of 2019
and
CMP.No.15442 of 2019

Pavunammal

... Petitioner

Vs.

1.Parameshwari
2.Chandra
3.Palanisamy

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India against the fair and decreetal order dated 29.03.2019 made in I.A.No.02 of 2019 in O.S.No.242 of 2015 on the file of the District Munsif Court, Jeyankondam.

For Petitioner

: Mr.R.Shase

ORDER

The plaintiff is the revision petitioner. During the course of trial, DW.1 marked an unregistered document as Ex.B.1. According to the petitioner, the said document is not admissible in evidence, as it is an

unregistered document.

2. The trial Court after considering the contention of the learned counsel for the respondents/defendants has held that the document already marked, cannot be rejected and the relevancy and admissibility can be decided at later point of time. Aggrieved over the same, the petitioner is before this Court.

3. According to the learned counsel for the petitioner, the relevancy and reliability of an inadmissible document can be raised at any stage and they can be rejected by the Court for the reasons recorded therein. Therefore, the said document which is marked as Ex.B1 is an un-stamped and un-registered sale deed and therefore, it is inadmissible in law and it has to be rejected.

4. I have considered rival contentions and the materials available before this Court.

5. On perusal of the petition filed by the petitioner to reject the document, it is averred that the said document which was marked as Ex.B1 is an un-registered sale deed and it does not aver that the said document is inadmissible for want of stamp duty. The trial Court has also

considered the submission made by the learned counsel for the respondents/defendants and found that the document, which was marked is only a sale agreement of the year 1990. During the said period, the registration of a sale agreement was not compulsory under Section 17 (b) of the Registration Act. Therefore, that issue can be considered at a later point of time.

6. The learned counsel for the petitioner also relied on a judgment of the Hon'ble Supreme Court in **(2003) 8 SCC 752 [R.V.E.Venkatachala Gounder Vs. Arulmigu Viswesarasami & V.P.Temple and another]**, para 19 of the said judgment reads as under:-

" 19. Order 13 Rule 4 CPC provides for every document admitted in evidence in the suit being endorsed by or on behalf of the court, which endorsement signed or initialled by the Judge amounts to admission of the document in evidence. An objection to the admissibility of the document should be raised before such endorsement is made and the court is obliged to form its opinion on the question of admissibility and express the same on which opinion would depend the document being endorsed as admitted or not admitted in evidence. In the latter case, the document may be returned by the court to the person from whose custody it was produced."

7. He also relied on the judgment of this Court in **2015 (2) CTC 365 [Sellayi (deceased) 1.Chinnammal and others Vs. Valliamal @ Pappu and others]**,

" ii) 2008 (6) CTC 237 (Anathula Sudhakar .v. P.Buchi Reddy (dead) by LRs. And others)

iii) 2001 (1) LW 724 (Arasappan Karayalar & another .v. Subramania Karayalar)

iv) 2007 (4) CTC 70 (Chinna Nachiappan and another .v. PL.Lakshmanan)

v) 2009 (3) CTC 59 (M.B.Subramaniam .v. A.Ramasamy Gounder)

vi) 2014 (2) CTC 421 (Ratna Kounder .v. Annamalai and others)

vii) 2014 (3) CTC 820 (Subramanian .v. Kosalai Ammal (deceased) and others)

viii) 1997 (90) LW 430 (Ramaswami Naidu and another ..vs.. Gopalakrishna Naidu and others)

ix) 1981 (94) LW 796 (Ponnuchami Servai .v. Balasubramanian alias Suresh)

x) 1997 (2) LW 234 (Poongavanam v. Perumal Pillai and another)

xi) 2001 (1) CTC 520 (P.S. Deivaprasad @ P.S. ... vs Dr. P.D.Balaji And Eleven Others)"

8. It is well settled that even an un-registered document can be received as evidence as per Section 49 of the Registration Act, for

collateral purpose. Whether the document in dispute, is marked for collateral purpose or not can be decided by the trial Court at the time of passing the order. Therefore, the document which is already marked, cannot be rejected and the finding of the trial Court in this regard does not suffer from any infirmity.

9. The Civil Revision Petition merits no consideration. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index:Yes/No

Internet:Yes/No

Speaking Order/Non Speaking Order

To

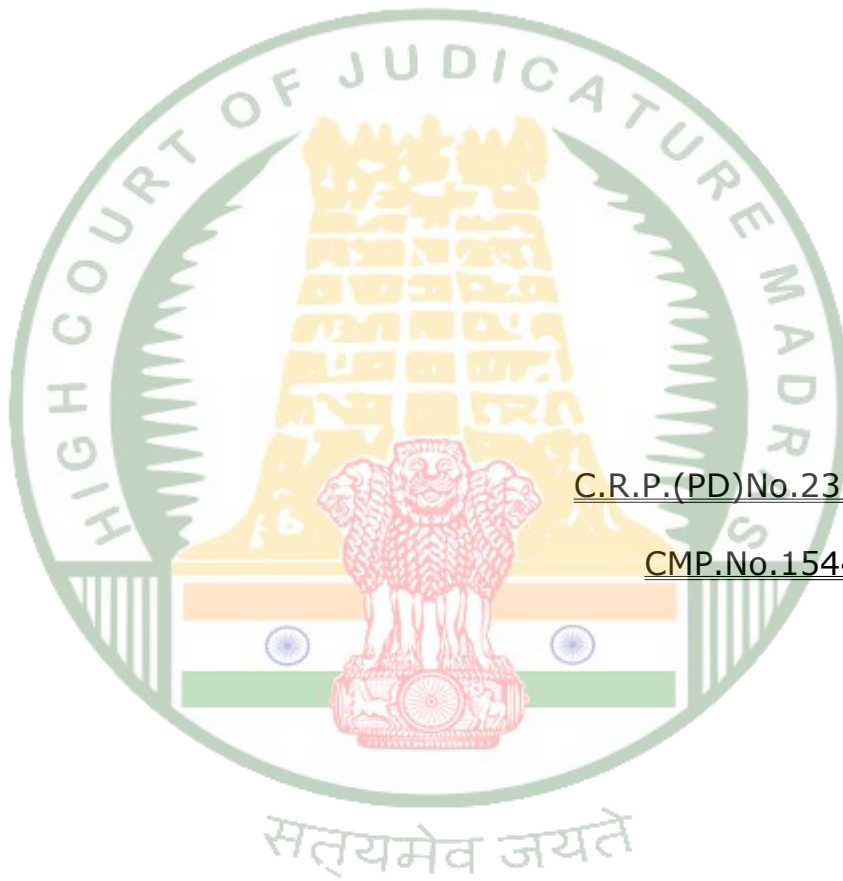
The Judge,
District Munsif Court,
Jeyankondam.

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