



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

C.R.P.No.4101 of 2019

and

C.M.P.No.26802 of 2019

Anandhavalli

... Petitioner

Vs.

1. Rajamanickam

2. Ramprakash

Rep by his Power Agent

Anbazhagan

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 27.08.2019, made in I.A.No.519 of 2016 in O.S.No.229 of 2014, on the file of the Principal District Munsif, Mayiladuthurai.

For Petitioner : Mr.A.Muthukumar

For Respondents : Mr.S.Sounthar

O R D E R

Present revision has been filed challenging the order passed by the Court below, impounding the document, for the purpose of payment of stamp duty.

2. The first respondent/plaintiff filed the suit for injunction restraining the defendants from interfering with his peaceful possession and to set aside the settlement deed dated 13.06.2014, executed by the first defendant in favour of the second defendant. The suit has been filed on the ground that the suit scheduled property originally belonged to one Kumarasamy and he sold the same to the plaintiff on 06.02.2009, and the title of the plaintiff was also confirmed in another suit in O.S.No.617 of 2004. Subsequently, the first defendant executed a settlement deed in favour of the second defendant. Hence, the present suit has been filed.



3. Pending trial, the first respondent/plaintiff wanted to mark the settlement deed executed between the plaintiff's father Palanivel Pillai and the first defendants two sons. Since the above document has not been properly stamped, he filed an application under Section 35 of the Indian Stamp Act to impound the document for the purpose of paying appropriate stamp duty for the purpose of payment of proper stamp duty. The trial Court allowed the said application. Now challenging the said order, present revision has been filed.

4. Mr.A.Muthukumar, learned counsel appearing for the petitioner/first defendant contended that the document which is sought to be marked by the plaintiff is unregistered and not properly stamped and it cannot be taken in evidence. That apart, the very document is not a genuine one and it is forged by the plaintiff. That apart, even though the plaintiff referred to the above document in the plaint, document has not been filed along with the plaint and it clearly establish that the document has been forged subsequent to the filing of the suit. Hence, as the document is a forged document the same cannot be impounded for the purpose of paying deficit stamp duty.

5. Mr.S.Sounthar, learned counsel appearing for the first respondent/plaintiff would contend that the plaintiff is not claiming any right over the document. The plaintiff only wants to use the document for collateral purpose to show that the previous transaction between the parties and he is claiming the right over the property through the sale deed executed by Kumarasamy in his favour. He further submitted that the document is used only for collateral purpose to show the nature of the property and he only relies upon the sale deed executed by Mr.Kumarasamy in his favour. He further submitted that it is settled law that an unregistered document can be marked in evidence for collateral purpose and since document is not properly stamped, he filed an application to impound the document for the purpose of paying proper stamp duty. According to him, whether the document is a forged one or not, the same cannot be decided at this stage, it is open to the petitioner to raise the same during trial and for that purpose the impugned order cannot be disturbed.

6. I have considered the rival submissions and perused the records carefully.

7. The first respondent / plaintiff wants to mark the settlement deed allegedly executed between the father of the plaintiff and the two sons of the first defendant. According to the plaintiff he wants to use the document only for collateral purpose to show the possession and he is not relying upon any right over the same. Since the document is not properly stamped, he wants it to be appropriately



stamped and hence he filed an application under Section 35 of the Indian Stamps Act to impound the same. Whereas, the learned counsel appearing for the petitioner/first defendant, contended that the document is a forged document and there is no settlement deed as alleged by the plaintiff. He further contended that now the plaintiff wants to legalise a forged document through the process of Court.

8. The above contention cannot be considered at this stage for the simple reason that document is yet to be marked. If at all the petitioner/first defendant has any grievance over the document, it is always open to her to raise the issue during the course of trial. At this stage, as plaintiff himself has submitted that he wants to use the document only for collateral purpose and he wants to pay the necessary stamp duty, Court cannot prevent him from doing so. The trial Court after considering all these aspects allowed the said application. I do not find any illegality or irregularity in the same as the trial Court has rightly allowed the application. There is no merit in the revision and the same is liable to be dismissed.

9. In the result, the civil revision petition is dismissed and the fair and final order of the Court below, impugned in this revision petition, are hereby confirmed. However, it is made clear that if the petitioner has any grievance over the document, she can raise the same at the time of marking of the document including the plea of forgery. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Principal District Munsif,
Mayiladuthurai.

+1cc to Mr.S.Sounthar, Advocate Sr.106084

C.R.P.No.4101 of 2019 and
C.M.P.No.26802 of 2019

nr[col]
srg 01/07/2020

<https://hcservices.ecourts.gov.in/hcservices/>