



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2019

CORAM:

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

C.R.P. (PD) (MD)No.673 of 2012
and M.P. (MD) .No.1 of 2012

Nazir Ahamed .. Petitioner/Petitioner/Plaintiff

-Vs-

1.A.Abdul Kaleel
2.A.Abdul Vajeer .. Respondents/Respondents/Defendants

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order made in I.A.No.277 of 2011 in O.S.No.310 of 2007 on the file of the Additional District Munsif, Lalgudi, dated 18.07.2011.

For Petitioner : Mr.R.Sundar

For Respondents : No Appearance

ORDER

This civil revision petition has been filed against the fair and final order passed by the court below dismissing the application filed by the petitioner under Order 13 Rule 2 CPC to receive a document and to permit the petitioner to mark the same as an exhibit.

2.The petitioner is the plaintiff before the court below and he has filed a suit claiming for the relief of permanent injunction.

3.During the pendency of the suit, the petitioner filed an application before the Court below under Order 13 Rule 2 of CPC to receive an acceptance deed, dated 22.03.2003 and to permit the petitioner to mark the same as an exhibit.

4.The court below has dismissed the said application on the ground that the acceptance deed, dated 22.03.2003, creates a right in favour of the petitioner and it extinguishes the right of the respondent, and therefore, the same requires registration under



Section 17 of the Registration Act. Since this document was neither registered nor stamped, the court below has held that the said document is inadmissible in evidence.

5.The learned counsel for the petitioner submitted that the acceptance deed is very much required for the purpose of enabling the court below to decide the rights among the parties in the property. Learned counsel, further, submitted that the court below ought to have allowed the application and decided with regard to the objection raised by the other side only at the time of passing the final judgment. Therefore, the learned counsel submitted that the order passed by the court below requires interference of this court.

6.Though the respondents have been served with notice and their names have also been printed in the cause list, there is no representation for the respondents.

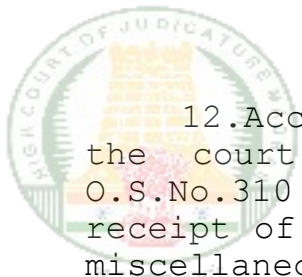
7.This Court carefully considered the submissions made by the learned counsel for the petitioner and the materials available on record.

8.The petitioner wants to introduce a document which carries a nomenclature as acceptance deed. This document is said to have been executed by the brothers of the petitioner by relinquishing their right in the suit property and thereby the petitioner has become the absolute owner of the property.

9.Even according to the petitioner, the said document, dated 22.03.2003, was entered by way of a family arrangement between the petitioner and his brothers and by virtue of this document, the brothers of the petitioner have relinquished their right in the property. This document has created a right in favour of the petitioner and extinguished the rights of the brothers of the petitioner and therefore, the same has to be compulsorily registered under Section 17 of the Registration Act. It is also seen that this document is unstamped.

10.This Court in ***S.Raghunatha Gounder Vs. Pattappa Gounder*** reported in ***2008 (2) CTC 345*** has categorically held that a family arrangement which is unstamped and unregistered cannot be looked into even for collateral purposes. The reason being that there is a complete bar under Section 35 of the Stamp Act and the document itself becomes inadmissible in evidence.

11.This Court does not find any legality or infirmity in the order passed by the court below and accordingly the fair and final order passed in I.A.No.277 of 2011, dated 18.07.2014, on the file of the Additional District Munsif, Lalgudi, is hereby confirmed.



12. Accordingly, this civil revision petition is dismissed and the court below is directed to complete the proceedings in O.S.No.310 of 2007, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(AD-II)

/TRUE COPY/

Sub Assistant Registrar

TM

To

1.The Additional District Munsif, Lalgudi.

2.The Record Keeper,
E.R/V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+1. C.C. to M/S.R.SUNDAR, Advocate SR.No.88095

C.R.P. (PD) (MD) No. 673 of 2012

19.09.2019

JM/10.10.2019/3P/5C