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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 12.03.2019

DELIVERED ON : 15.04.2019

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (PD) (MD) No. 2465 of 2015

and

M.P. (MD) No. 1 of 2015

Puthiyamuthu

.. Petitioner/Respondent/Plaintiff

Vs.

1.Selvanayagam

2.Vellammal

.. Respondents/Petitioner/Defendants

Prayer: This Civil revision petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order made in I.A.No.630 of 2015 in I.A.No.1592 of 2014 in O.S.No.172 of 2014 on the file of the District Munsif Court, Srivaikundam dated 31.08.2015.

For Petitioner	: Mr.T.Selvan
For 1 st Respondent	: No Appearance
For 2 nd Respondent	: Mr.T.Arivu kumar

ORDER

Heard Mr.T.Selvan, learned counsel appearing for the petitioner and Mr.T.Arivu kumar, learned counsel appearing for the second respondent.

2.This Civil Revision Petition has been filed against the order passed in I.A.No.630 of 2015 in I.A.No.1592 of 2014 in O.S.No.172 of 2014 dated 31.08.2015 on the file of the District Munsif Court, Srivaikundam.

3.The petitioner herein is the plaintiff and the respondents herein are the defendants in the suit. The petitioner herein has filed a suit in O.S.No.172 of 2014 for a prayer of declaration and injunction. I.A.No.1592 of 2014 was filed by the petitioner for a prayer of Ad-interim injunction. Pending disposal of the suit, the respondents have filed a petition in I.A.No.630 of 2015 for permitting to file additional documents and the trial Court allowed the petition. Against the order, the petitioner has come forward with this revision petition.



4. On the side of the petitioner, it is stated that instead of passing a speaking order, just two lines order is passed by the trial Court and that the respondents want to file three documents and out of three documents, two documents are registered mortgage deeds and the third document is an unregistered document valued for a sum of Rs.1,00,000/- (Rupees One lakh only) and the petitioner has filed an objection for receiving the document under Section 17 of the Registration Act but the trial Court has failed to consider those objections and allowed marking of those documents.

5. On the side of the second respondent, it is stated that the original suit is for declaration and injunction and not for redemption or for recovery of money and that the trial is not yet commenced. The petitioner has raised his objection at the marking of the documents and the documents can be marked subject to objections. An unregistered document can be marked before the Court for collateral purpose and unregistered document mortgage deed cannot be received in evidence for passing a decree in a mortgage suit and that these mortgage deeds are only to prove loan transaction and for collateral purpose and prayed the petition to be dismissed.

6. It is seen that the petitioner has filed a suit for a prayer of declaration and injunction and in that suit, a petition for Ad-interim injunction is also filed. The petitioner has no objection in marking two registered mortgage deeds but the petitioner raised objections with regard to third document which is an unregistered mortgage deeds. The suit is not a mortgage suit and that the suit is not filed either for recovery of money or for a right of redemption of mortgage. The mortgage deed is not a primary document in the suit.

7. In the above circumstances, if the petitioner is aggrieved by the marking the unregistered mortgage deed, he can raise his objections at the course of trial. There is nothing wrong in receiving the document for collateral purpose. Hence, this Civil Revision Petition is dismissed and the order passed in I.A.No.630 of 2015 in I.A.No.1592 of 2014 in O.S.No.172 of 2014 dated 31.08.2015 on the file of the District Munsif Court, Srivaikundam is confirmed. No Costs. Consequently, M.P.(MD)No.1 of 2015 is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

Sub Assistant Registrar (CS)



To

1.The District Munsif, Srivaikundam.

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C.R.P. (PD) (MD) No.2465 of 2015
15.04.2019

AL (CO)

TR (10.05.2019) 3P 2C