



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.04.2019

CORAM :

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THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

CRP(MD) Nos.2780 and 2824 of 2018

and

C.M.P.(MD) Nos12131 and 12261 of 2018

R.Thiagarajagandham

... Petitioner in both C.R.Ps.,

vs.

K.Sanjeevi

... Respondent in both C.R.Ps.,

COMMON PRAYER:- Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the order dated 14.11.2018 and 03.11.2018 passed in I.A.No.91 of 2018 in O.S.No.36 of 2017 on the file of the learned Additional District Judge (FTC), Theni.

For Petitioner : Mr.M.Saravanan

For Respondent : Mr.T.Bashyam

ORDER

These Civil Revision Petitions have been filed to set aside the order 14.11.2018 and 03.11.2018 passed in I.A.No.91 of 2018 in O.S.No.36 of 2017 on the file of the learned Additional District Judge (FTC), Theni.

2.Before the trial Court, the petitioner herein is the defendant and the respondent herein is the plaintiff. For the sake of convenience, the parties will be referred to as per their rank before the trial Court.

3.In I.A.No.91 of 2018, the plaintiff contended that the suit property belongs to the defendant. From the plaintiff's daughter namely, Sobana, the defendant received a sum of Rs.4,50,000/- and the defendant had executed a registered mortgage deed in favour of Sobana on 10.02.2011. The said Sobana had executed an unregistered made over document in favour of plaintiff on 20.06.2017,

4.The grievance of the plaintiff is that since the said document is not a registered one, he filed a suit in O.S.No.36 of 2017. Therefore, it is necessary to withdraw the suit with liberty to file a fresh suit on the same cause of action after rectifying



the defects.

5.The defendant in his counter statement contended that the petition filed by the plaintiff for withdrawing the suit is only to drag on the proceedings and to defeat the right of the defendant.

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6.The trial Court observed the contention raised on either side. The reasons stated by the plaintiff is a valid ground since the suit is filed based on an unregistered made over document. The trial Court however, allowed the said petition. The defect ie., non registration of the made over document is a formal defect and the said defect has to be rectified and the plaintiff has right to withdraw the said suit and hence, apart from imposing a cost of Rs.5,000/-, the said petition was allowed against which, the defendant has filed the present petition.

7.Heard the learned counsel on either side.

8.Since the defect in the unregistered made over document cited by the trial Court can be cured, the said petition was allowed on payment of cost because of the delayed filing of the petition. So in view of the order order dated 14.11.2018 and 03.11.2018 passed in I.A.No.91 of 2018 in O.S.No.36 of 2017 on the file of the learned Additional District Judge (FTC), Theni, this Court finds that there is no merit to interfere with the same, in which, both parties cannot have any grievance.

9.These Civil Revision Petitions are dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/

Assistant Registrar(A.S)

/True copy/

Sub Assistant Registrar(CS)

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To

The Additional District Judge (FTC),
Theni.

+2cc to M/S.M.Saravanan, Advocate in SR No.60208

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