



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2019

CORAM:

THE HONOURABLE **MRS.JUSTICE S.RAMATHILAGAM**

C.R.P(PD) (MD)No.825 of 2017

and

C.M.P. (MD)No.3665 of 2017

Natarajan (Died)

1.Esaiazhagan

2.Annadurai

3.Sittarasu

4.Bharathi Selvam

... Petitioners/Petitioners/
Defendants 2 to 5

Vs.

1. Chelliah

2. Elangovan

... Respondents/Respondents/
Plaintiff & 6th defendant

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed in I.A.No.212 of 2016 in O.S.No.136 of 2013 dated 09.03.2017 on the file of the 1st Additional District Munsif, Tirunelveli.

For Petitioners	: Mr.J.Ashok
For R1	: Mr.H.Arumugam
For R2	: No Appearance

ORDER

This civil revision petition has been preferred against the fair and decreetal order passed in I.A.No.212 of 2016 in O.S.No.136 of 2013 dated 09.03.2017.

2. I.A.No.212 of 2016 was filed by the petitioners, who are defendants in O.S.No.136 of 2013. The petitioners herein as defendants contended that the case was posted for their examination and the father of the first defendant entered into an agreement with one Sudalaimuthu, S/o.Muthusamy for the sale of the property at Rs.2,000/- and the said amount was received and the sale of agreement was also executed. The said sale agreement was executed on stamped papers and the same was also written on 29.12.1977.



3. The second defendant in the affidavit contended that his father first defendant entered into a sale agreement with Sudalaimuthu, son of Muthusamy for a sum of Rs.2,000/- on 29.12.1977. The said agreement ought to have executed in Rs.2.50 stamp paper, but it was executed in the 0.50 paise stamp paper. Hence, the petitioners being the defendants have filed the petition for paying stamp duty and the penalty for the sale agreement dated 29.12.1977.

4. The 1st respondent in his counter states that the petitioners in their written statement pleaded that the schedule properties possession was given on 29.12.1977 to the first defendant become the owner ever since, the document in question dated 29.12.1977 ought to be registered, as title/right to schedule properties has been conveyed, and that such unregistered and under stamped documents could not be received in evidence as barred U/s. 49 Registration Act. Hence, now the petition to receive the additional stamp duty does not rectify the defect once again.

5. It is seen that the petitioner seeking voluntarily to pay the deficit stamp fee by claiming that it is a sale agreement, for which he has received a sum of Rs.2000/- as consideration, confirming the sale. In this connection, in any case, even if taken as an acknowledgment of receipt of sale consideration, it is compulsorily registrable U/s. 17(1) of the Registration Act 1908 and hence cannot be received as evidence.

6. The trial Court has also rightly observed the fact that the defect of an unstamped and unregistered document cannot be cured and received in evidence at all and dismissed the petition stating that contents of the document and also the right claimed by the defendants by filing voluntarily application for questioning the deficit court fee, does not cure or rectify.

7. Considering the facts and circumstances of the case, this Court is of the opinion that the observation made by the trial Court is very much based on the provision of law. Hence, the order passed by the trial Court does not require any interference by this Court and the same is confirmed.

8. Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar



To

1.1st Additional District Munsif,
Tirunelveli.

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-55204[F] dated 20/03/2019)

+1 CC to M/s.J.ASHOK, Advocate (SR-55482[F] dated 20/03/2019)

**C.R.P (PD) (MD) No.825 of 2017
and**

C.M.P. (MD) No.3665 of 2017

JM/10.10.2019/3P/6C