



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

CRP (MD) (PD) .No.2863 of 2018

and

C.M.P (MD) .No.12403 of 2018

Arunachalam

:Petitioner/Petitioner/2nd Defendant

Vs.

The Adheena Kartha
Thiruvaduthurai Adheenam
Represented by its
Adheena Kartha
Thiruvaduthurai, Kuthalam Taluk
Nagapattinam District

:Respondent/Respondent/Plaintiff

PRAYER : This Civil Revision Petition has filed under Article 227 of the Constitution of India against the fair and decreetal order dated 31.10.2018 made in I.A.No.1034 of 2018 in O.S.No.224 of 2015 on the file of the Additional District Munsif Court, Ambasamudram.

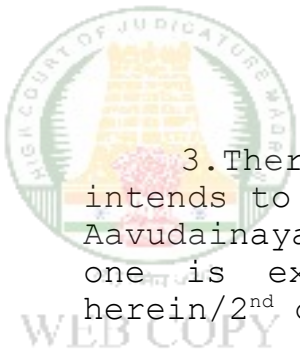
For Petitioner : Mr.R.Mohana Sundaram

For Respondent : Mr.S.P.Maharajan

O R D E R

This Civil Revision petition has been preferred against the fair and decreetal order dated 31.10.2018 made in I.A.No.1034 of 2018 in O.S.No.224 of 2015 on the file of the Additional District Munsif Court, Ambasamudram.

2.I.A.No.1034 of 2018 was filed by the petitioner who is the second defendant in the suit. In the said I.A., the petitioner/2nd defendant would submit that the evidence on the side of the respondent/plaintiff is over and for his side evidence, the proof affidavit has been filed. Further, the petitioner/2nd defendant would submit that the suit mentioned property is not in his possession and the same was also mentioned in his written statement. He has also filed all the related documents pertaining to his possession and enjoyment. There are certain documents which are obtained by him and these documents are very much essential to prove his case and hence, the petitioner filed the said interlocutory application to receive the said documents on his side.



3. There are two documents which the petitioner/2nd defendant intends to file before the trial Court. One is gift deed executed by Aavudainayagam in favour of the petitioner/2nd defendant and another one is executed by Selva Pakiam in favour of the petitioner herein/2nd defendant.

4. The respondent/plaintiff in the counter statement has contended that the said documents filed by the petitioner are unregistered documents and they are also not executed in the stamp paper. Further, the property mentioned in the said two documents lie in Sevanthipuram Village. Whereas the suit mentioned property situates in Esanamadam Village. Hence, the said two documents are no way related to the properties mentioned in the plaint. Further, the respondent/plaintiff contended that the petitioner/2nd defendant has not stated the purpose for which he has filed these two documents. Hence, the respondent/plaintiff denied the contents of the petition filed by the petitioner/2nd defendant.

5. The trial court after observing the contentions raised by both sides, survey numbers and title of the said properties, stating that the proper stamp duty has to be paid for the said two documents and hence, the trial Court has allowed the said petition and impounded the same. Aggrieved against the said order, the petitioner has preferred this Civil Revision Petition.

6. The learned counsel for the revision petitioner/2nd defendant would submit that these two documents were filed for the purpose to prove the contradiction of the survey number of the suit schedule property, since the same was already pleaded in the written statement of the revision petitioner/2nd defendant. The purpose of marking the document is only for collateral purpose. Therefore, mere marking of unregistered document will not create any title and the order of the trial court is very much objected by the revision petitioner/2nd defendant. Hence, the petitioner has filed this civil revision petition to set aside the order passed by the trial Court.

7. The other grievance raised by the revision petitioner herein/2nd defendant is that there is no registration has been entertained by the Revenue Authorities as well as the Registration Department, because of the reason that the settlement enquiry about abolition of Inam was going on. Hence, considering the said reason and the inconvenience that is caused to the revision petitioner/2nd defendant for registering the said documents, the learned counsel for the revision petitioner/2nd defendant prays that the order of the trial Court has to be set aside.

8. In support of his contention, the learned counsel for the revision petitioner/2nd defendant has relied upon the order of this Court reported **in 2015 (1) L.W. 134 (Solai Vs. Periyakaruppan & others)** and another order reported **in 2015 (1) CTC 359 (T. Chakrapani Vs. K. Adimoolam)**.



9.I have heard the learned counsel appearing on either side.

10. This Court after hearing the submissions made by both counsel and on perusal of the documents, it is observed that the said two documents are unregistered documents and hence, the trial Court has impounded the said two documents produced by the revision petitioner for the purpose to collect stamp duty and there is no irregularity or variation in the said order, since the respondent/plaintiff has also relied upon the correct survey number. Whereas the revision petitioner/2nd defendant has filed two unregistered documents and saying that it is only for collateral purpose and the trial Court is not convinced. The reason stated by the revision petitioner for difficulty in registering the said two documents cannot be a good reason.

11.The grievance of the petitioner is that these two documents are very much required for the proceedings before the settlement Tahsildhar and hence, considering the status of the case that now it stands in the stage of examination of the revision petitioner/2nd defendants's side evidence, the revision petitioner/2nd defendant is directed to co-operate with the trial for early disposal of the case and get the said documents after disposal of the case.

12.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

To

The Additional District Munsif,
Ambasamudram.

Copy to : The Section Officer, VR Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+1 CC to M/s.S.P.MAHARAJAN, Advocate in SR-54548

+1 CC to M/s.R.MOHANASUNDARAM, Advocate in SR-54536

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