IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2020

CORAM:

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

CRP(PD).No.1695 of 2014
and
MP.No.1 of 2014

1. Arumugham
2. Venkatesan ... Petitioners

Vs.

Ramalinga Naidu ... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal orders dated 29.01.2014 passed in IA.No.420 of 2013 in OS.No.135 of 2011 on the file of the Principal District Munsif Court, Cuddalore.

For Petitioners : Mr.P.Mani

For Respondent : Mr.R.Gururaj
for Mr.D.Baskar

ORDER

This Civil Revision Petition has been filed by the respondents/defendants against the order passed by the Principal District

Munsif, Cuddalore in IA.No.420 of 2013 in OS.No.135 of 2011 dated 29.01.2014.

2. The respondent herein had filed a suit in OS.No.135 of 2011 on the file of the Principal District Munsif, Cuddalore to declare his title over the suit property and for permanent injunction to restrain the defendants therein from interfering with their peaceful possession and enjoyment of the suit property. During trial, the respondent herein filed an application in IA.No.420 of 2013 in OS.No.135 of 2011 under Sections 33 to 40 of the Indian Stamp Act, to send the unstamped and unregistered sale deed dated 10.09.1981 to the Deputy Collector of Stamps, Cuddalore, for assessment and collection of stamp duty and penalty. The learned District Munsif by the order dated 29.01.2014 had allowed the said application. Feeling aggrieved, the respondents therein/defendants have filed the present Civil Revision Petition.

3. Heard Mr.P.Mani, the learned counsel for the petitioners, Mr.R.Gururaj for Mr.D.Baskar, the learned counsel for the respondent/plaintiff.

4. The learned counsel for the petitioners has submitted that the respondent herein had filed a suit in OS.No.135 of 2011 on the file of the the Principal District Munsif, Cuddalore to declare his title over the suit property and for permanent injunction to restrain the defendants therein from interfering with his peaceful possession and enjoyment of the suit property. He further submitted that during trial, the respondent herein attempted to mark an unstamped and unregistered sale deed as exhibit and at that time, the petitioners herein raised objections for marking the said document. He further submitted that the learned trial court accepting the objections raised by the petitioners herein, rejected the request of the respondent to mark the said document as exhibit and thereafter, the respondent herein filed an application in IA.No.420 of 2013 in OS.No.135 of 2011 requesting the court to send the said document to the Deputy Collector of Stamps, Cuddalore, for assessment and collection of stamp duty and penalty. The learned District Munsif had allowed the said application without considering the fact that already the same court had rejected the request of the respondent/plaintiff to mark the said document in evidence. He further submitted that since the said document is an unstamped and unregistered sale deed, the same is

inadmissible in evidence in view of Section 35 of the Indian Stamp Act and also under Section 17(b) of Registration Act and under the said circumstances, sending of the said document to the Deputy Collector of Stamps, Cuddalore, for assessment and collection of stamp duty and penalty is a futile exercise and that would not serve any purpose and hence, he prayed to set aside the order passed by the learned District Munsif, Cuddalore in I.A.No.420 of 2013 in O.S.No.135 of 2011 and dismiss the said application.

5. Per contra, the learned counsel for the respondent/plaintiff has submitted that the Indian Stamp Act does not absolutely prohibit the parties from marking the unstamped and unregistered document. He further submitted that as per the proviso (a) to Section 35 of the Indian Stamp Act, the court can admit the said document in evidence after collecting the stamp duty with penalty or it can send the said document to the Deputy Collector of Stamps,Cuddalore, for assessment and for collecting stamp duty and penalty as per Section 40 of the Indian Stamp Act and accordingly, the trial court had sent the document to the Collector. He further submitted that in pursuance of the said order, the

Deputy Collector of Stamps, Cuddalore collected the stamp duty with penalty and thereafter he sent back the said document to the trial court and that the said document has been marked as Ex.A2 without any objection and hence, this Civil Revision Petition itself has become infructuous. Therefore, he prayed to dismiss this Civil Revision Petition.

6. Considering the submissions made by the learned counsel for the respondent that during pendency of this Civil Revision Petition, the Deputy Collector of Stamps, Cuddalore had collected the stamp duty with penalty and that he sent back the said document to the trial court and that the said document has been marked as Ex.A2, this Civil Revision Petition is dismissed as infructuous. No costs. Consequently, the connected miscellaneous petition is also closed.

17.12.2020

Vv

Index :Yes/No
Internet : Yes/No

P.RAJAMANICKAM.J.,

Vv

To

The Principal District Munsif Court,

Cuddalore.

C.R.P(PD).No.1695 of 2014
and
MP.No.1 of 2014

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