

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.R.P.(PD) No.3396 of 2015

1.Revathi
2.Myilsamy
3.Palanisamy

... Petitioners

-VS-

1. Saminathan
2. Maliyappa Gounder

..Respondents

Civil Revision Petition filed under Article 227 of Constitution of India against the Fair and Decretal Order dated 19.02.2015 passed in I.A.No.1915 of 2014 in O.S.No.270 of 2009 on the file of the District Munsif, Kangayam, Tiruppur District.

For Petitioners

:

Mr.C.Prakasam

For Respondents

:

Ms.Suganya Maya
for Pitty Parthasarathy

ORDER

This Civil Revision Petition has been filed against the order dated 19.02.2015 passed in I.A.No.1915 of 2014 in O.S.No.270 of 2009 on the file of the District Munsif, Kangayam, Tiruppur District.

2. An application in I.A.No.1915 of 2014 in O.S.No.270 of 2009 was filed by the petitioners/defendants 2 to 4 under Order 8 Rule 1 (3) of Civil Procedure Code to receive the documents. The documents that has been

sought to be received was unregistered partition agreement dated 20.05.1993, wherein the respondents in the present Civil Revision Petition are not parties.

3. The trial Court, on considering the oral and documentary evidence, observed that the recitals in the partition agreement shows that the parties to the document have partitioned the properties on 20.05.1993 itself and had taken of the properties as found in the said document. In the said document, the rights of the parties have been ascertained, thereby actual division had already taken place. An unregistered document, which creates rights and liabilities between the parties cannot be used to deny the rights of the other sharers in the suit property. Since, the suit is for partition the rights of the parties have to be decided independently. It cannot be knocked down by an instrument, which was not registered, as the non-registration of a document cannot be, at a distant point of time, cured. In a suit for partition, the filing of an unregistered partition agreement cannot be termed to be a document for collateral purpose. On the aforesaid findings, the trial Court has dismissed the application vide order dated 19.02.2015 Challenging the same, the present Civil Revision Petition has been filed.

4. Heard both sides. Perused the materials available on record.

5. As rightly observed by the Trial Court, an unregistered document, which creates rights and liabilities between the parties cannot be used to

deny the right of the other sharers in the suit property. Moreover, the suit is for partition and therefore, the rights of the parties have to be decided independently, in which, the filing of an unregistered partition agreement cannot be construed or converted to be a document for collateral purpose. In the considered opinion of this Court, the petitioners cannot file the unregistered document as evidence before any Court of law and hence, this Court does not find any perversity or error in the order passed by the Court below, warranting interference and the Civil Revision Petition is liable to be dismissed.

6. Accordingly, the Civil Revision Petition is dismissed. It is made clear that since the suit is of the year 2015, the Trial Court is directed to take up the Suit and proceed with the same on a day-to-day basis without adjourning the same beyond five working days at any point of time. It is further made clear that in case either of the parties seeks unnecessary adjournment before the Trial Court except on the ground of accident or death, a cost of Rs.1,000/- shall be imposed on the party seeking adjournment for each and every hearing. In case of accident or death, relevant certificate has to be produced in proof thereof and if the Court feels that the certificate issued by the Doctor is a bogus one, the Doctor, who issued the certificate shall be examined to ascertain the genuineness of the certificate and the Trial Court is also at liberty to lodge a complaint against the Doctor, if it is proved to be bogus. It is clarified that the purpose of imposition of costs will not only ensure avoidance

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of unnecessary adjournment, but also quick disposal of the matter so as to render justice at the earliest point of time. No costs. Consequently, connected Miscellaneous Petition is closed.

10.03.2020

Index: Yes/No

Internet:Yes

arr/ar

To:

The District Munsif,
Kangayam,
Tiruppur District.



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