

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.No. 3700 of 2018
and
C.M.P.No. 20585 of 2018

T.V.Ganapathy

...Petitioner/Plaintiff

Vs.

Anbazhagi

...Respondent/Defendants

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the docket order dated 06.10.2018 passed by the II - Additional District and Sessions Court, Chidambaram in O.S.No. 46 of 2017.

For Petitioner : Mr.P.Sesubalan Raja
For Respondent : Mr.V.Balamurugane

ORDER

The plaintiff in O.S.No. 46 of 2017 has come up with this revision, challenging an order permitting the defendants to mark the document styled as family arrangement dated 03.02.1994 allegedly for a collateral purpose to show that the adoptive mother of the plaintiff Dhayanithi Ammal has severed the relationship of adoption under the said document.

2. The plaintiff sued for partition and separate possession of his $\frac{1}{2}$ share claiming that he was adopted by Thillaivillalan and Dhayanithi Ammal in the year 1971.

3. The suit is being resisted by the defendant, who is the adoptive daughter of Thillaivillalan and Dhayanithi Ammal, claiming that Dhayanithi Ammal had severed the adoption by the document which is styled as family arrangement dated 03.02.1994. It is the further claim of the defendant that Dhayanithi Ammal had executed settlement deeds in her favour therefore, the plaintiff is not entitled to seek partition. In order to prove

that Dhayanithi Ammal had severed the adoption the defendant wanted to produce the document styled as family arrangement dated 03.02.1994.

4. This was objected on the ground that the said document is neither stamped nor registered. The Trial Court concluded that the document requires both stamping and registration as it effects a partition by itself and it is not a record of the previous oral partition. The Trial Court, however, concluded that since the defendant wants to rely upon the document only for a collateral purpose namely, to show that the adoption was severed, can be admitted in evidence after payment of stamp duty.

5. Upon the said conclusion, the Trial Judge directed admission of the document in evidence upon payment of stamp duty with penalty. Whatever be the name of the document, the contents of the document should be looked into. The Trial Court has rightly found that the document effects partition by itself and therefore, it requires registration and stamping. However, unregistered instrument if properly stamped can be looked into for a collateral purpose. The question what is the collateral purpose has to be looked into. The collateral that is alleged is to prove severance of adoption. If the collateral purpose is illegal or the very transaction is invalid then, the document need not be admitted in evidence to prove such an invalid transaction. Section 15 of the Hindu Adoptions and Maintenance Act reads as follows:-

"15. Valid adoption not to be cancelled - No adoption which has been validly made can be cancelled by the adoptive father or mother or any other person, nor can the adopted child renounce his or her status as such and return to the family of his or her birth."

6. Section 15 enacts a prohibition against cancellation of adoption therefore, any cancellation of adoption is invalid. Hence, I do not see any justification for the Trial Court to receive the document to prove the collateral purpose which is illegal. Hence, this civil revision petition is allowed, the order of the Trial Court is set aside and the document will stand rejected. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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To:

1.The II - Additional District and Sessions Court,
Chidambaram.

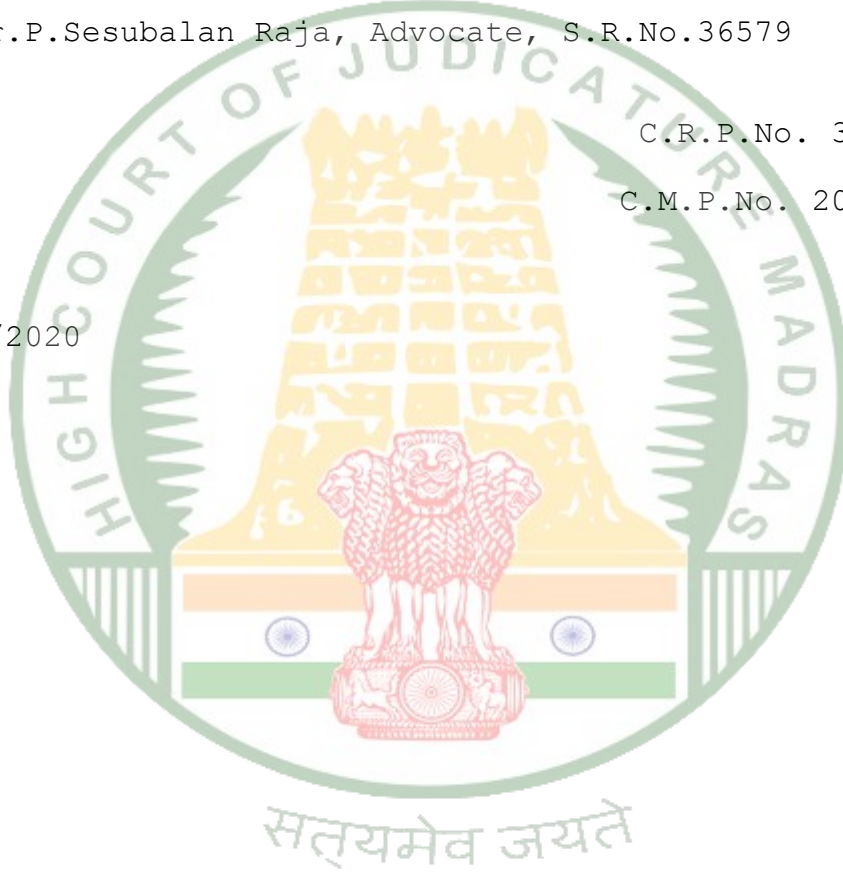
2.The Section Officer,
V.R.Section, High Court, Madras.

+1cc to Mr.V.Balamurugane, Advocate, S.R.No.36540

+1cc to Mr.P.Sesubalan Raja, Advocate, S.R.No.36579

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SVI (CO)
KKV/02/12/2020



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