



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2020

CORAM

THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

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C.R.P.(PD)(MD)Nos.2296 of 2014 and 2679 of 2018

C.R.P.(MD)No.2296 of 2014:-

1.M.Subbaiah
2.M.Chandran @ Ramachandran
3.Mariammal
4.Kulanthaivelu
5.Rajammal
6.Pandi @ Samuthirapandi : Petitioners/Petitioners/Defendants

.. Vs ..

Tamil Mani @ Kumar : Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.381 of 2014 in O.S.No.380 of 2013 on the file of the I Additional District Munsif Court, Tirunelveli, dated 03.09.2014.

For Petitioners : Mr.M.P.Senthil
For Respondent :Mr.T.Selvan

C.R.P.(MD)No.2679 of 2018:-

Pandi : Petitioner/6th Petitioner/6th Defendant

.. Vs ..

1.Tamil Mani @ Kumar ... 1st Respondent/Respondent/Plaintiff
2.M.Subbaiah
3.M.Chandran @ Ramachandran
4.Mariammal
5.Kulanthaivelu
6.Rajammal : Respondents 2 to 6/Petitioners 1 to 5/
Defendants 1 to 5

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 22.11.2018 passed in I.A.No.1283 of 2018 in O.S.No.380 of 2013 on the file of the I Additional District Munsif Court, Tirunelveli.



For Petitioner
For R1

: Mr.M.P.Senthil
: Mr.T.Selvan

COMMON ORDER

C.R.P.(MD)No.2296 of 2014 is filed by the defendants in the suit in O.S.No.380 of 2013 on the file of the I Additional District Munsif Court, Tirunelveli, against the order in I.A.No.381 of 2014 in O.S.No.380 of 2013, dated 03.09.2014.

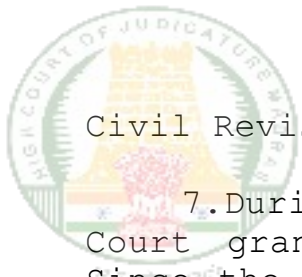
2.C.R.P.(MD)No.2679 of 2018 is filed by the 6th defendant in the suit in O.S.No.380 of 2013 against the order passed by the I Additional District Munsif Court, Tirunelveli, in I.A.No.1283 of 2018 in O.S.No.380 of 2013, dated 22.11.2018.

3.The brief facts that are necessary for the disposal of these Civil Revision Petitions are as follows:

4.The respondent in C.R.P.(MD)No.2296 of 2014, as plaintiff, filed the suit in O.S.No.380 of 2013 for permanent injunction restraining the defendants from interfering with his peaceful possession and enjoyment of the plaint schedule property. It is the case of the plaintiff in the plaint that he is the absolute owner of the suit property and that the defendants are trying to grab the suit property from the plaintiff. Stating that an attempt was made by the defendants to dispossess the plaintiff, the suit came to be filed by the plaintiff in August'2013.

5.In the written statement filed by the defendants in the suit, a specific stand was taken by the defendants that the plaintiff had sold the plaint schedule property to the defendants 1, 4, 5 and 6 and one Mandasamy, on 08.08.1994, for a total consideration of Rs.22,500/-. Stating that the entire sale consideration was paid to the plaintiff by the defendants 1, 4, 5 and 5 and the said Madasamy and that possession of the property was also handed over to the defendants, the defendants disputed the possession and enjoyment of the suit property by the plaintiff.

6.During the pendency of the suit, the defendants filed an application in I.A.No.381 of 2014 for reception of certain documents, including a document, which is styled as a sale agreement executed by the plaintiff in favour of defendants 1, 4, 5 and 6 and Madasamy on 08.08.1994. While allowing the petition in respect of other documents, the lower Court appears to have discarded the document, namely, the sale agreement, dated 08.08.1994, on the ground that the said agreement is insufficiently stamped and that therefore, it is not admissible in evidence. Relieved by the same, the defendants have filed the



Civil Revision Petition in C.R.P. (MD) No. 2296 of 2014.

7. During the pendency of C.R.P. (MD) No. 2296 of 2014, this Court granted an order of interim stay for a limited period. Since the stay order was not extended, it appears that the lower Court has proceeded with the suit. Thereafter, the defendants filed an application in I.A. No. 1283 of 2018 in O.S. No. 380 of 2013 for adjourning the case, till the final order is passed by this Court in C.R.P. (MD) No. 2296 of 2014. The said petition was partly allowed by holding that the defendants should obtain necessary orders from this Court by 26.11.2018. Aggrieved by the same, the 6th defendant in the suit, filed C.R.P. (MD) No. 2679 of 2014.

8. The learned Counsel for the revision petitioners submitted that the document, which is styled as sale agreement, is sufficiently stamped and that the lower Court has decided its admissibility without considering the character of the document. The learned Counsel further submitted that the lower Court failed to see that the agreement was entered into in the year 1994 and that therefore, the stamp affixed is in accordance with the Indian Stamp Act and Rules 1899. The learned Counsel further submitted that the lower Court ought to have impounded the document and admitted the document subject to payment of sufficient stamp duty and penalty. The learned Counsel for revision petitioners further submitted that there is no embargo with regard to the admissibility of a sale agreement as evidence for want of stamp duty, as no transaction in relation to immovable property is dealt with under the sale agreement.

9. This Court carefully considered the submissions of learned Counsels appearing for the revision petitioners and the respondent/plaintiff. First of all, it is to be seen that the revision petitioners have come forward with a case, which is inconsistent with their stand taken in the written statement. In the written statement originally filed by the revision petitioners, it contended that the defendants 1, 4, 5 and 6 and one Madasamy purchased the property for a valid sale consideration of Rs. 22,500/-. The document is dated 08.08.1994 and the position that the document is insufficiently stamped is admitted. It is in the above context, when the revision petitioners have not even pleaded the sale agreement and the sale agreement is insufficiently stamped, this Court is unable to find any error or illegality in the order of lower Court.

10. As admitted by the revision petitioners, the stand taken by the revision petitioners before the lower Court is that the property had already been sold by the plaintiff in 1994. As pointed out earlier, the sale agreement was not even pleaded. In



document. Since it is well settled that no amount of evidence can be received without pleading, a document, which is styled as sale agreement, cannot be permitted to be produced in the light of specific averments in the written statement that the property had already been purchased by the defendants 1, 4, 5 and 6. That apart, the document is neither stamped nor registered. Even though registration of sale agreement in 1994 is not compulsory, the document is certainly insufficiently stamped. The said document can never be admitted in evidence, even for collateral purpose.

11.The learned Counsel for the revision petitioners contended that the document can be admitted subject to payment of stamp duty and penalty. Collection of stamp duty and penalty following the procedure prescribed under the provision of Indian Stamp Act 1899, does not make the document admissible, as collection of stamp duty and penalty is only a statutory obligation of Court. When a document is insufficiently stamped or un-stamped, the same cannot be looked into, even for collateral purpose.

12.The suit is for bare injunction filed by the original owner. The defence set up by the defendants is that they are in possession and enjoyment of the property on the basis of a sale deed. Now, the document produced by the defendants is only a sale agreement, which does not give any right in any immovable property. Based on the sale agreement, the revision petitioners cannot establish title. Hence, the order of lower Court is perfectly valid and C.R.P.(MD)No.2296 of 2014 deserves to be dismissed. Accordingly, C.R.P.(MD)No.2296 of 2014 is dismissed and the order passed by the I Additional District Munsif Court, Tirunelveli, in I.A.No.381 of 2014 in O.S.No.380 of 2013, dated 03.09.2014, is confirmed.

13.The order passed in I.A.No.1283 of 2018 in O.S.No.380 of 2013, dated 22.11.2018, is consequential and in view of the position that the connected civil revision petition in C.R.P.(MD) No.2296 of 2014 is dismissed, there is no scope for keeping Civil Revision Petition in C.R.P.(MD)No.2679 of 2018 pending. Accordingly, this Civil Revision Petition is also dismissed. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

The I Additional District Munsif, Tirunelveli.

C.R.P. (PD) (MD)Nos.2296 of 2014 and 2679 of 2018
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