

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.2437 of 2013 and
MP.No.1 of 2013

1.K.Natarajan
2.Meivazhi Selvam Gounder
3.T.Manonmani

..Petitioners

Vs.

1.The District Collector,
Vellore District,
Vellore
2.Thasildar,
Vellore Taluk,
Vellore District
3.K.Somasekaran(died)
4.S.Venkatesan
5.S.Palani

(R3-died, R4 & 5 – LR's of the deceased R3
as per the memo dated 01.12.2020 and vide
court order dated 09.12.2020 in CRP.No.
2437 of 2013)

..Respondents

PRAYER:

The Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure against the order dated 13.03.2013 made in IA.No.769 of 2012 in OS.No.609 of 2006 on the file of the Principal District Court, Vellore.

For Petitioners : M/s.M.R.Sakunthala

For Respondents

For R1 & 2	:Mr.S.Jagannathan, Government Advocate(CS)
R3	: died (steps taken)
R4 & 5	: Notice served

ORDER

The Civil Revision Petition is directed as against the order passed in IA.No.769 of 2012 in OS.No.609 of 2006 on the file of the Principal District Court, Vellore dated 13.03.2013 thereby dismissed the petition filed by the petitioners to receive the document and permit them to mark the same as Ex.A.10 on their side.

2. The petitioners are the plaintiffs. They filed suit for declaration of title, partition and for mandatory injunction as against the respondents. At the time of filing of suit, the petitioners failed to produce the release deed dated 02.04.1983 along with the plaint for the reason that it was misplaced. While cross examination of DW1, he also categorically admitted the said release deed which was shown to him and also admitted his signature in the said document. Therefore, the petitioner filed application for reception and marking the said document and it is unregistered one. The respondents 3 to 5 also filed counter and objected the reception of the said document on the

ground that it is not admissible in evidence to prove the title as per Section 17 of Registration Act, since it is unregistered one. Further unless stamp duty is paid, first the said document cannot be looked into by the Court. Considering the said petition, the trial court dismissed the petition. Aggrieved by the same, the petitioners are before this Court. The learned counsel for the petitioners relied upon the judgment in the case of **Karuppannan Vs. Thavasiappan and another** reported in **(2006) 4 MLJ 706** in support of her contention.

3. Though notice was issued to the respondents 3 to 5 herein, insofar as R4 and R5 they refused to receive the same and R3 died. Though their names are printed in the cause list, no one appeared on behalf of them before this Court in person or through pleader.

4. The petitioners are plaintiffs. They filed suit for declaration of title, partition along with mandatory injunction. They filed document and marked the same as Ex.A1 to A9. At the time of filing the suit, they failed to file the document, namely release deed dated 02.04.1983 executed by the third defendant in favour of one, KV Kuppusamy Naicker for the reason it was misplaced and as such they could not be able to trace the said document at the time of filing the suit and after filing the suit, they found the document

and during the cross examination DW1, he categorically admitted the said document as well as his signature found in the said document. The trial court rejected the petition for the reason that the said document is an unregistered document and only after the payment of stamp duty it can be looked into. In this regard, the learned counsel for the petitioner relied upon the judgment in the case of **Karuppannan Vs. Thavasiappan and another** reported in **(2006) 4 MLJ 706**, wherein this Court has held as follows:

"8. It is well settled in law that even an unregistered document can be admitted as an evidence as the same can be looked into for collateral purpose. At the same time the admissibility of the unregistered document is not automatic if the same is only stamped. If the revision petitioner is willing to pay the deficit stamp duty as well as the penalty on the same, the unregistered release deed dated 14.8.1994 may be admitted as evidence and the trial court thereafter to apply its mind as to the merits of admissibility of the document irrespective of the fact whether the document is registered or unregistered document is also admissible for collateral purpose."

The above judgment is squarely applicable to the case on hand, since the petitioners requested the trial court to receive the document for collateral purpose alone as provided in proviso to Section 49 of Registration Act, and not for the purpose of release of share. Further, they are ready and willing to

pay the stamp duty as well as penalty. Admittedly, the document which is proposed to be marked by the petitioners is unregistered one. It can be marked as evidence only for collateral purpose. The admissibility of the unregistered release deed is not an automatic, if the same is only stamped and if the petitioners are willing to pay the deficit stamp duty as well as penalty, it can be admitted as evidence by the trial court.

5. In view of the above discussion, this civil revision petition is allowed and the order passed in IA.No.769 of 2012 in OS.No.609 of 2006 dated 13.03.2013 is set aside. The trial court is directed to receive the release deed dated 02.04.1983 as Ex.A10 for collateral purpose alone. If the petitioners paid the stamp duty and penalty, it may be admitted as evidence. Consequently, connected miscellaneous petition is closed. No order as to costs.

सत्यमेव जयते

04.01.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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G.K.ILANTHIRAIYAN,J.

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To

The learned Principal District Court,
Vellore.



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