

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.04.2021**

Coram

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.R.P. (PD) No. 658 of 2021

And

C.M.P.No. 5650 of 2021

1. V.Shanthi
2. Chandra ... Petitioners/Respondents/Defendants

-Vs-

P.Gunankudi ... Respondent/Petitioner/Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and Decretal order dated 19.08.2019 made in I.A.No. 900 of 2016 in O.S.No. 188 of 2015 on the file of the District Munsif, Gobichettipalayam, Erode.

For Petitioners : Mr. M. Guruprasad

For Respondent : Mr. B. Vijay
for Mr. Eswar Kumar

ORDER

The defendant in O.S.No. 188 of 2015 now pending on the file of the learned District Munsif Court, Gobichettipalayam, Erode District is the petitioner herein.

2. The suit in O.S.No. 188 of 2015 had been filed seeking declaration that the plaintiff is the absolute owner of the suit property by virtue of a sale deed dated 07.02.2012 and seeking permanent injunction restraining defendant from interfering with the peaceful possession of the plaintiff and also for declaring that the sale deed under Document No. 1871 of 2015 dated 07.07.2015 registered in the Office of the Kavindapady Sub-Registrar executed by the first defendant in favour of the second defendant as null and void and not binding on the plaintiff and for costs of the suit.

3. Written statement had been filed by the first defendant. Issues had been framed and parties have been invited to tender evidence.

4. The plaintiff had been examined as witness. The plaintiff wanted to produce the sale deed dated 15.05.1995 which sale deed had been executed by Valliammal in favour of Muthayammal, according to them at the sale consideration of Rs.25,000/-. Unfortunately, the said sale deed was neither stamped under Section 35 of Indian Stamp Act nor registered as envisaged under Section 17 of the Registration Act.

5. The fact of non-registration cannot be regularised by the Court. So far as unstamped documents are concerned, the documents can be impounded when presented before the Court and the Court can call upon the party producing the document to pay penalty on the stamp duty.

6. The plaintiff filed an application to fix the stamp duty penalty to be paid for the said sale deed dated 15.05.1995. The learned Judge had examined the said document and had passed orders on 19.08.2019, calling for the guideline value and thereafter, directing ten times of the stamp duty to be paid along with 1% charge for the document. This order is now questioned in the present revision petition by the defendants herein.

7. It is stated by the learned counsels that subsequent to the said order, the stamp duty as directed had also been paid and the document had also been marked as an Exhibit. Subsequently, the petitioner/defendant had also filed I.A.No. 2 of 2021 calling upon the Court to reject the said document which has been marked as an Exhibit.

8. In the present revision, the same relief is also sought.

9. The learned counsel for the petitioner stated that even though the stamp duty had been collected, still the document would suffer by being hit under Sections 17 and 49 of the Registration Act and that it is the admissible in evidence.

10. The learned counsel also relied on **2017 SCC Online Mad 2104 [K.Raju & another Vs. A.Raja]**, wherein it had been held that a document which is neither granted nor registered, cannot be taken into consideration even for collateral purpose and cannot be marked as an Exhibit and has to be declared as inadmissible in evidence. The learned counsel also relied on **2020 (1) CTC 47 [Thangamuthu and Ors. Vs. A.**

Jeyaraj] wherein also, it had been held that a document which is compulsorily registrable under the Registration Act cannot be admitted as evidence.

11. There is no quarrel over the said dictums.

12. However, since I.A.No. 2 of 2021 is now pending before the learned District Munsif at Gobichettipalayam, it would only be appropriate that the learned District Munsif at Gobichettipalayam applies his mind and examines the purpose for which the document had been produced and thereafter, decide whether he can consider it during the course of deciding the issues or rejects it during the course of deciding the issue. It is purely a discretion of the learned District Munsif, Gobichettipalayam and it will highly in appropriate on the part of this Court to enter into any discussion with respect to that aspect.

13. This Civil Revision Petition is disposed of only because of the reason that I.A.No. 2 of 2021 is pending. Both the parties are at liberty to raise all legal issues before the learned District Munsif Court at

Gobichettipalayam while contesting I.A.No. 2 of 2021. No further orders are required. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index: Yes/No

Internet: Yes/No.

Speaking / Non speaking



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C.V.KARTHIKEYAN, J.

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