

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on 10.08.2021	Orders pronounced on 09.09.2021
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Coram

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P.(PD) No.1143 of 2021

and

C.M.P.No.8814 of 2021

1. Mani
2. Das
3. Kannappan

... Petitioners

Vs

1. Munusamy
2. Vembuli
3. Alamelu

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decretal order dated 04.02.2020 made in I.A.No.128 of 2018 in O.S.No.191 of 2007 on the file of the Principal District Munsif, Poonamallee.

For Petitioner

..

Mr.S.Vijay Anand

For Respondents

..

Mr.M.Chidambaram

ORDER

This Civil Revision Petition is filed challenging the order passed in I.A.No.128 of 2018 in O.S.No.191 of 2007 on 04.02.2020 by the learned Principal District Munsif, Poonamallee.

2. I.A.No.128 of 2018 was filed under Order XIII Rules 1 and 2 CPC to permit the petitioners/plaintiffs to mark the sale letter executed by the first defendant in favour of Rani Ammal dated 26.10.1979 and the first page of sale letter executed by Rani and Vembuli in favour of the petitioners/plaintiffs dated 01.08.1985.

3. It is alleged in I.A.No.128 of 2018 that petitioners filed suit for declaration of title and permanent injunction. At the time of filing the suit, petitioners filed a sale letter executed by the first defendant in favour of Rani Ammal dated 26.10.1979 and first page of the sale letter executed by Rani and Vembuli in favour of plaintiffs. Plaintiffs are in possession and enjoyment of the suit property. After purchasing the property in 1985, first plaintiff constructed thatched house in the suit property and then,

constructed a terraced house and obtained electricity connection. Plaintiffs are in possession and enjoyment of the suit property for more than 32 years. When first petitioner was examined as PW.1, defendants objected to mark the aforesaid documents. These documents can be marked for proving the collateral purpose of showing the possession. Therefore, the petition is filed. This petition was opposed by the respondents on the ground that these documents deal with the transfer of immovable property worth more than Rs.100/- and therefore, requires to be registered under Section 17 of Indian Registration Act. The petitioners claim right in respect of the suit property only through these documents. Therefore, these documents cannot be admitted in evidence. The learned Principal District Munsif, Poonamallee, considered the rival submissions and dismissed the petition. Against the dismissal order, this Civil Revision Petition is filed.

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4. Learned counsel for the petitioners submitted that though the documents sought to be marked are not registered documents, they can be received in evidence for the purpose of showing possession. In this regard, he relied on the judgments reported in **2003 (4) SCC 161 (Bondar**

Singh ..vs.. Nihal Singh & others) for the proposition that though the unregistered sale deed is not admissible in evidence, it can be looked into for collateral purpose. Collateral purpose in this regard is showing the nature of possession of the plaintiffs in the suit property. Another ruling reported in **2013 (1) LW 87 (Easwari ..vs.. Duraisamy)** was cited for the proposition that unregistered document can be sent to the Collector for imposing penalty as provided under Section 40 of the Stamp Act. On payment of penalty, the document shall be admitted in evidence. The order of this Court passed in **CRP.(PD) No.3976 of 2018 (Anandhan and another ..vs.. Ramalingam) on 28.09.2020** is also cited for the proposition that the Court can impound the unregistered document and send it to the Collector for valuation under Section 33 of the Stamp Act and the document can be received subject to proof and relevancy as evidence on payment of penalty of stamp duty.

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5. Learned counsel for the respondents strongly opposed this petition on the ground that the case of the plaintiffs is that they claimed right to the suit property only on the basis of these documents. Therefore, these documents cannot be marked even for collateral purpose. It is

further submitted that the alleged sale letter dated 26.10.1979 and first page of the sale letter dated 01.08.1985 show that all the parties to these documents have not signed in these documents. These documents are incomplete documents and therefore, inadmissible in evidence.

6. Considered the rival submissions and perused the records. No doubt that the unregistered documents can be relied for collateral purpose, like showing the character of possession. In the case before hand, perusal of the sale letter executed by first respondent/first defendant in favour of Raniammal shows that there are five parties to this document. They are (1) Raniammal (purchaser) and (2) Ponnammal (3) Munusamy (4) Ranjitham and (5) Thamman (sellers). Of the four sellers, Munusamy had only signed in this document. It is an incomplete document and it is an unregistered document. It is seen from the first page of sale letter executed by Raniammal and her daughter Vembuli in favour of the petitioners/plaintiffs on 01.08.1985 that only Raniammal and Vembuli had signed in this document. Purchasers Mani, Kannappan and Doss had not signed in this document. The value of the property was shown as Rs.750/- in a sale letter dated 26.10.1979 and it is Rs.7100/- in first page of sale

letter dated 01.08.1985. A sale in respect of immovable property worth more than Rs.100/- should be executed only through registered instrument. Therefore, these documents cannot be admitted in evidence to base the title to this property. Not only that, as indicated, these documents are incomplete. Some of the parties to the documents have not signed in the documents. Petitioners claim right in the property only on the basis of these documents, which are incomplete and unregistered documents. Therefore, this Court is of the considered view that these documents cannot be considered even for collateral purpose.

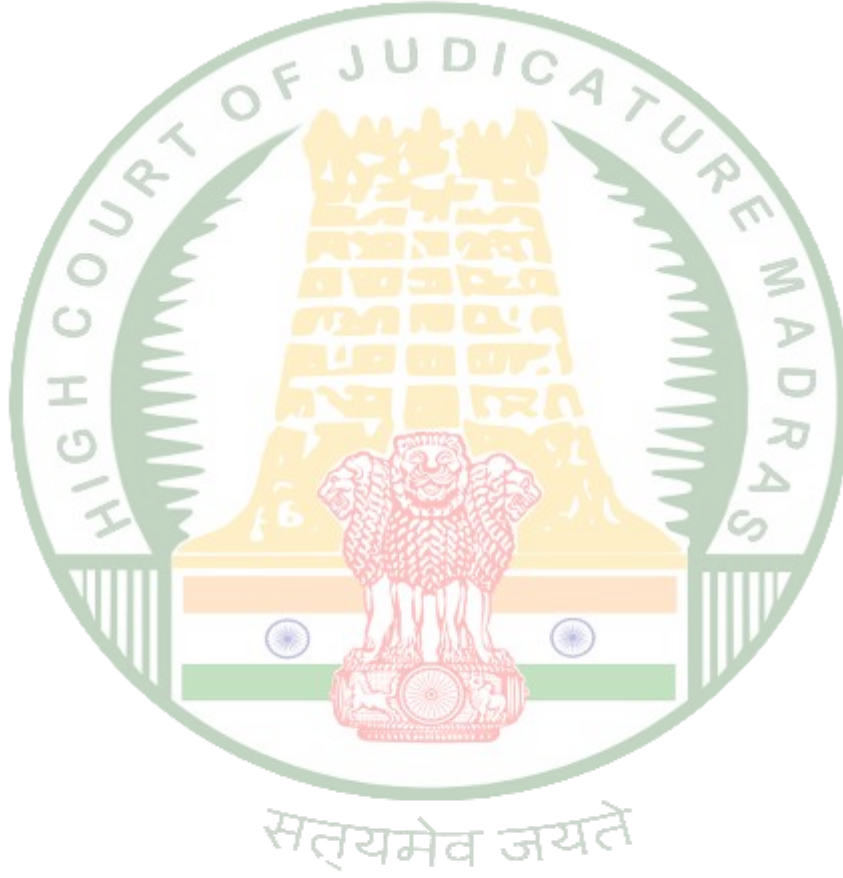
7. In this view of the matter, order of the learned Principal District Munsif, Poonamallee passed in I.A.No.128 of 2018 in O.S.No.191 of 2007 on 04.02.2020 is confirmed and this Civil Revision Petition is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

Mra
Index : Yes / No
Internet : Yes / No
Speaking order : Yes / No

09.09.2021

To,

1. The Principal District Munsif, Poonamallee.



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G.CHANDRASEKHARAN, J.

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