

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2021

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

**C.R.P.(PD) No.1140 of 2021
and C.M.P.No.8808 of 2021**

S.Gnanasekaran ... Petitioner

Vs.

1.Elumalai

2.Venkatesan

3.Thulasi Ammal

... Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India as against the fair and decreetal order dated 30.08.2019 made in I.A.No.231 of 2019 in O.S.No.10 of 2015 on the file of the Principal District Munsif Court, Villupuram.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.S.Krishnasamy

ORDER

This Civil Revision Petition is filed, as against the fair and decreetal order dated 30.08.2019 made in I.A.No.231 of 2019 in O.S.No.10 of 2015 on the file of the Principal District Munsif Court, Villupuram.

2.The petitioner herein has filed a suit in O.S.No.10 of 2015 for declaration and permanent injunction as against the respondents.

3.During the pendency of the suit, the petitioner has filed an application in I.A.No.231 of 2019, to introduce a fresh document by the petitioner, which was termed as family arrangement and dated 09.12.1948.

4.The learned counsel for the petitioner would submit that the petitioner's father-Subbarayan had given acknowledgment letter to panchayatars, in which he mentioned about the properties allotted to him and to his brother in the partition. Further, the letter details about the oral partition in respect of the movable and immovable properties allotted to the parties and also the details of debts. He would further submit that this is not a partition deed and only an acknowledgment and therefore, the said document can be marked as an evidence for collateral purpose.

5.This petition was resisted by the learned counsel for the respondents on the ground that the reading of the letter shows that this is not a Koor chit or family arrangement, but actually a partition deed. This partition deed deals with the disposition and allotment of properties in question and it has not been registered. Hence, the said document cannot be

received in evidence.

6.The learned trial Judge, considering the rival submissions found that this document creates certain rights over the properties in respect of the petitioner and therefore, through this document, it can be admitted only if it is registered. Since, the document is not registered, it cannot be admitted in evidence.

7.Against the said order dated 30.08.2019 in I.A.No.231 of 2019, the petitioner is before this Court, with this Civil Revision Petition.

8.A copy of the family arrangement document alleged to have been executed on 09.12.1948, is produced before this Court. Reading of the same would show that the trial Court has rightly found that the document creates a right in praesenti through this document to one Kannan. The document speaks about the immovable properties to be allotted to Kannan and there is also a reference about payment of certain loan amount. Value of the property is more than Rs.100/- and hence, the document has to be necessarily registered. Since it is not registered, this Court finds that it is not admissible in evidence.

9.In view of the above, this Court finds no reason to interfere with the order of the learned trial Judge, dated 30.08.2019 in I.A.No.231 of 2019. Accordingly, this Civil Revision Petition stands dismissed and the order of the trial Court dated 30.08.2019 in I.A.No.231 of 2019 is hereby confirmed. No costs. Consequently, connected miscellaneous petition is closed.

02.08.2021

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Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No

To
1.The Principal District Munsif Court
Villupuram.
2.The Section Officer
VR Section
High Court of Madras.

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G.CHANDRASEKHARAN.J,

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