

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 18.02.2021**

**CORAM:**

**THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN**

C.R.P.(P.D).No.1610 of 2016  
and C.M.P.No.8743 of 2016

Gajendiran

Vs

...Petitioner

1.V.Seetharaman

2.Punitha

3.Malathi

4.The Sub-Registrar

Dusi Sub Registration Office

Dusi

Cheyyar Taluk.

...Respondents

**Prayer:** Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed in I.A.No.153 of 2016 in O.S.No.25 of 2012 on 05.03.2016 by the Additional District Munsif, Cheyyar, Tiruvannamalai District.

For Petitioner

: Mr.K.S.Kumar

For Respondents

: No appearance for R1

R2 to R4 given up

**ORDER**

The Civil Revision Petition is directed as against the fair and decretal order passed on 05.03.2016 in I.A.No.153 of 2016 in O.S.No.25 of 2012 by the Additional District Munsif, Cheyyar, Tiruvannamalai District, thereby allowed the petition to order for Stamp Duty and penalty in respect of unregistered sale deed and permit to mark it as exhibit.

2.The 1<sup>st</sup> respondent filed a suit for declaration declaring that the sale deed executed by the 1<sup>st</sup> and 2<sup>nd</sup> defendant in favour of the 3<sup>rd</sup> defendant dated 04.03.2011, vide document No.562 of 2011 as null and void and also for mandatory injunction, directing the 1<sup>st</sup> and 2<sup>nd</sup> defendant to register the sale deed executed by them in favour of the 1<sup>st</sup> respondent herein dated 30.09.2006, in respect of the suit schedule property. Admittedly, the sale deed dated 30.09.2006 is unstamped and unregistered one. While pending the suit, the 1<sup>st</sup> respondent filed a petition to impound the same for paying Stamp Duty as well as the penalty to mark the same as one of the exhibit. The petitioner is the 3<sup>rd</sup> defendant in the suit filed by the 1<sup>st</sup> respondent herein and he is the purchaser of the suit property from the

1<sup>st</sup> and 2<sup>nd</sup> defendants in the suit. The Court below allowed the petition on the ground that there is no bar to mark the unregistered document, after paying necessary Stamp Duty and penalty and the same can be used for collateral purpose. Further observed that mere marking of the document will not make it admission of evidence. In this regard, the learned counsel for the petitioner rely upon the following Judgments:

(i) in the case of ***Amertham Vs. Thannace***, reported in **2020 (4) CTC 395** and relevant portion is given below:-

*"Registration Act, 1908 (16 of 1908), Section. 49 - Indian Stamp Act, 1899 (2 of 1899), Section 35 - Unstamped unregistered Sale Deed - Whether admissible in evidence for collateral purpose in Suit for declaration of title - Plaintiff claimed adverse possession and marked unstamped unregistered Sale Deed to prove possession - No specific plea of Adverse Possession in Plaint - Purpose of marking said Sale Deed is only to prove Plaintiff's title as per pleadings - Held, document cannot be looked into for any collateral purpose as it is neither stamped nor registered - Unregistered Sale Deed cannot be admitted in evidence as Plaintiff claims title and Suit itself is for*

*Declaration of Title based on unregistered Sale Deed - Collateral transaction must be independent and divisible from transaction, which requires registration - Collateral transaction should be one, which does not create or extinguish title or interest in immovable property - Trial Court right in holding that document is inadmissible in evidence for want of Stamp Duty and Registration - Civil Revision Petition is dismissed."*

(ii) in the case of ***Dhananjezhiyan and another Vs. Kuppu and others*** reported in **2020 (5) CTC 812**. The head notes are given below:-

"Registration Act, 1908 (16 of 1908), Sections 17 & 49 - Stamp Act, 1899 (2 of 1899), Section 35 - Unregistered and Unstamped document - Plaintiffs seeking Declaratory relief on basis of unregistered and unstamped document - Unstamped and unregistered document is inadmissible in evidence - It cannot be relied upon in Court proceedings, when such document becomes basis of claim of person tracing his/her title - Lower Courts rightly rejected said document - Second Appeal dismissed."

(iii) in the case of ***Chandra Sundararaj and other Vs.C.M.Dhinakaran @ Suresh and others*** reported in **2019 (6) CTC 517**.

Head notes are here:-

"Registration Act, 1908 (16 of 1908), Section.

17 - Document purporting to be Family Arrangement to be registered, if it effects relinquishment of rights over properties - Such document should be properly stamped and registered, and unregistered document not admissible in evidence."

3.This Court repeatedly held, that the document cannot be looked into for any collateral purpose as it is neither stamped nor registered. The unregistered sale deed cannot be admitted in evidence as plaintiffs claims title and suit for declaration of title based on the unregistered sale deed. Collateral transaction must be independent and it requires registration. Further held that the unstamped and unregistered document is inadmissible in evidence.

4.In the case on hand, according to the 1<sup>st</sup> respondent herein, the respondents 2 and 3 executed sale deed dated 30.09.2006 in favour of him and thereafter failed to register the same. Therefore, the 1<sup>st</sup> respondent filed a suit for mandatory injunction directing the 2<sup>nd</sup> and 3<sup>rd</sup> respondent to register the sale deed dated 30.09.2006 in favour of the 1<sup>st</sup> respondent

herein. Therefore the entire was suit filed on the strength of the sale deed dated 30.09.2006. It is admittedly unstamped and unregistered one. When it being so, it cannot be relied upon in the Court proceedings, when such document becomes basis of claim of person tracing his/her title.

5.In view of the above discussion, the order passed by the Court below on 05.03.2016 in I.A.No.153 of 2016 in O.S.No.25 of 2012 by the Additional District Munsif, Cheyyar, Tiruvannamalai District, is perverse and illegal and liable to be set aside.

6.Accordingly, the order passed on 05.03.2016 in I.A.No.153 of 2016 in O.S.No.25 of 2012 is set aside and the Civil Revision Petition is allowed. No costs. Consequently connected miscellaneous petition is closed.

सत्यमेव जयते

**18.02.2021**

Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

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To

The Additional District Munsif, Cheyyar, Tiruvannamalai District.

**G.K.ILANTHIRAIYAN,J,**

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