

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2021

CORAM

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

CRP.PD.No.3222 of 2016

and

CMP.No.16335 of 2016

1. Prema
2. Amirtham
3. Amsayal

... Petitioners

Vs.

1. Thara
2. Ponnusamy

... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 02.09.2015 passed in I.A.No.78 of 2015 in O.S.No.2 of 2012 on the file of the Subordinate Judge, Neyveli and allow the Civil Revision Petition.

For Petitioners

: Mr.S.Kadarkarai

For Respondents

: Mr.R.Balasubramanian

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.78 of 2015 in O.S.No.2 of 2012 dated 02.09.2015 on

the file of the Subordinate Judge, Neyveli, thereby allowing the petition to receive the un-registered and un-stamped sale deed dated 13.10.1994 and impound the same for payment of Stamp Duty as well as Penalty.

2. The suit is filed for bare injunction by the respondents as against the petitioners herein.

3. The learned counsel for the petitioners submitted that the un-registered sale deed dated 13.10.1994, pertains to some other property viz., the property comprised in S.No.199/4 in the total extent of 0.20.5 hectares ad-measuring 7 1/2 cents. Whereas, the respondents filed a suit in respect of the property comprised in S.No.199/5. Therefore, the sale deed which was sought to be marked is no way connected with the suit schedule property. He further submitted that the sale deed itself is fabricated one, since the first page of the sale deed indicates that it was purchased on 11.10.1994 and the second page of the said document was purchased on 18.10.1994. But the sale deed was executed on 13.10.1994. Even then, the Court below allowed the petition to impound the sale deed for payment of Stamp Duty and Penalty. Though the sale deed was sought to be marked for purpose of collateral, to prove the possession of the property, it is fabricated and it

cannot be allowed to be marked by the Court below.

3. The learned counsel for the respondents supported that the fair and decretal order dated 02.09.2015 passed by the Court below. The present Civil Revision Petition was filed only on 21.09.2016. In fact, the said document was impounded and the respondents paid the Stamp Duty as well as the Penalty as early as on 03.02.2016. Thereafter, P.W.1 was also examined in chief and the said document was marked as Ex.A7.

4. Considering the above submissions, nothing survives in this Civil Revision Petition. Accordingly, this Civil Revision Petition is dismissed. However, the petitioners are at liberty to cross examine P.W.1 on the ground raised by the petitioners herein and thereafter, the trial Court is directed to dispose of the suit within a period of six months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed. No costs.

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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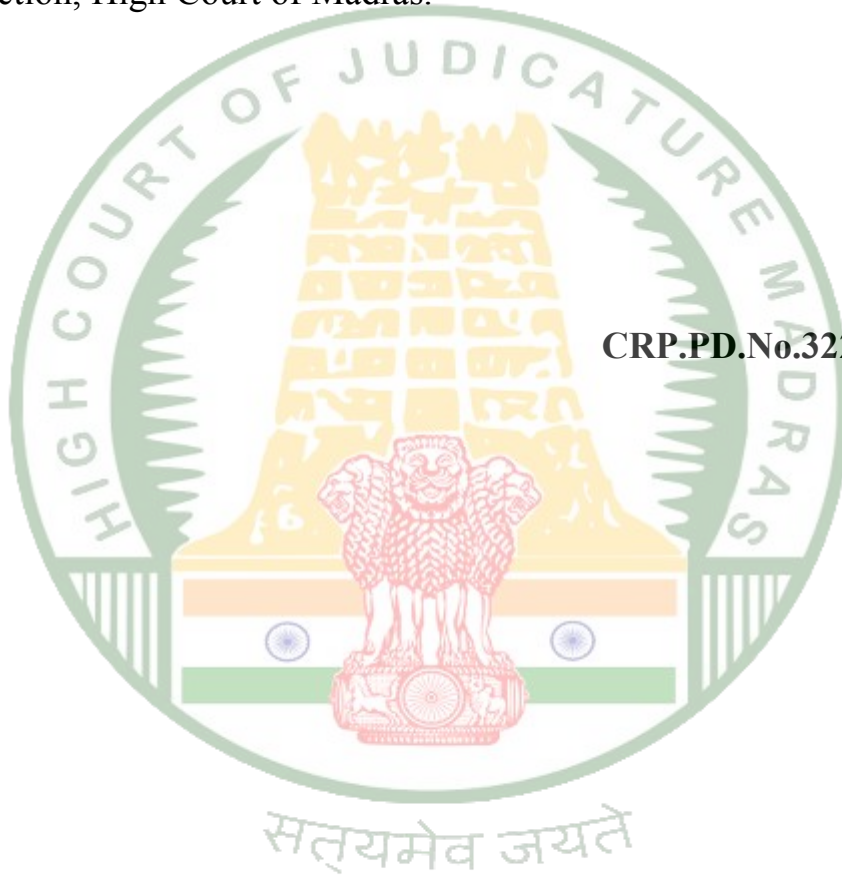
10.03.2021

G.K.ILANTHIRAIYAN,J.

Kv

To

1. The Subordinate Judge, Neyveli.
2. The Section Officer,
V.R.Section, High Court of Madras.



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