

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.01.2021

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(PD) No.3651 of 2016

and

C.M.P.No.18579 of 2016

1.Pappal @ Chinnammal
2.Valliammal
3.Velumani

... Petitioners

Vs.

Subramani (Died)
1.Arunachalam
2.Paramasivam
3.Rajammal
4.Rajamani
5.Manisamy
6.Mohanasundaram

... Respondents

Prayer :- The Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order dated 07.04.2016 passed by the Learned District Munsiff, Pollachi in I.A.No.175 of 2016 in O.S.No.331 of 2006.

For Petitioner : M/s.L.Mouli
For Respondents : Mr.C.Veeraraghavan

for R2, R4, R5 & R6

R1 & R3 – Notice Served

– No appearance

ORDER

This Civil Revision Petition filed as against the order dated 07.04.2016 passed by the Learned District Munsiff, Pollachi in I.A.No.175 of 2016 in

O.S.No.331 of 2006, which was filed to receive additional documents with the condone delay petition.

2.The petitioners are plaintiffs. They filed a suit for partition. The respondents are the defendants and after examining some of the witnesses, they filed a petition to receive additional documents such as patta passbook and the partition deed between them in respect of the suit property with the delay petition. The Court below allowed the petition in the interest of justice and also stated that if the documents marked, no prejudice would be caused to the petitioners herein.

3.The learned counsel for the petitioners would submit that the partition deed which is intend to be marked by the respondents is the unregistered one. Therefore, the unregistered documents cannot be marked and it is inadmissible in evidence. As per Section 17 (b) and Section 49 of the Registration Act, the unregistered partition deed is not admissible in evidence. He further submitted that as per order VIII Rule 8A of C.P.C., the Court below can permit the respondents to produce the documents, but cannot permit them to mark unregistered documents. In support of the said contention, he also relied on the judgment reported in the case of **D.Srinivasan vs. D.Chairman** reported in **2013 (4) CTC 145** , wherein this Court held as follows:

“24. In view of the law on this point above stated, it ought to be held that a document which creates or extinguishes right by itself would call for payment of sufficient Stamp duty and due registration under the Stamp Act and the Registration Act. If the document is not stamped or insufficiently stamped or not registered, such document is inadmissible in evidence and it could not be relied upon by the Court for any collateral purpose. Hence, the document cannot be allowed to be marked in evidence. In such a view of the matter the order passed by the Trial Court needs no interference which deserves to be confirmed and accordingly it is confirmed. The Revision is devoid of merits, which suffers dismissal. The point is answered as indicated above.”

4.This Court held that even for the unregistered documents cannot be allowed to mark. Therefore, the order passed by the Court below is perverse and contrary to law in respect of the unregistered partition deed. Insofar as the patta passbook is concerned, it can be marked subject to objections raised by the petitioner.

5.In view of the above discussion, this Civil Revision Petition is partly allowed and the order dated 07.04.2016 passed by the Learned District Munsiff, Pollachi in I.A.No.175 of 2016 in O.S.No.331 of 2006 is set aside insofar as the unregistered partition deed is concerned. The respondents can mark the patta passbook subject to the objections raised by the petitioners herein. No costs.

Consequently, connected miscellaneous petition is closed.

22.01.2021

Index : Yes/No

Internet : Yes/No

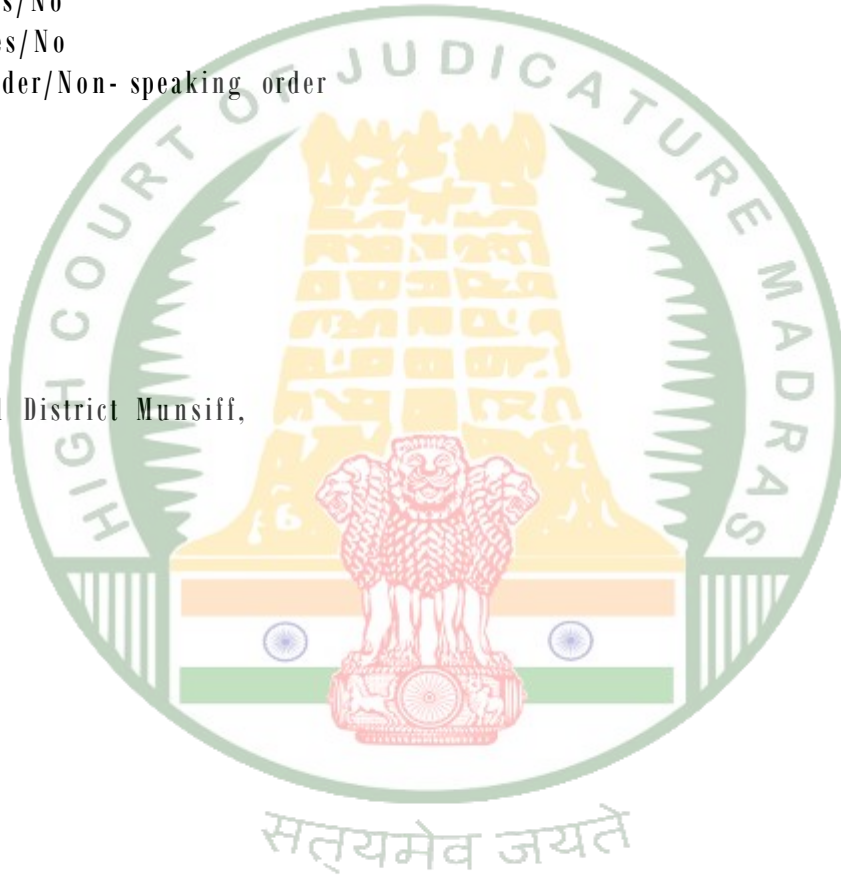
Speaking order/Non- speaking order

pns

To

The Learned District Munsiff,

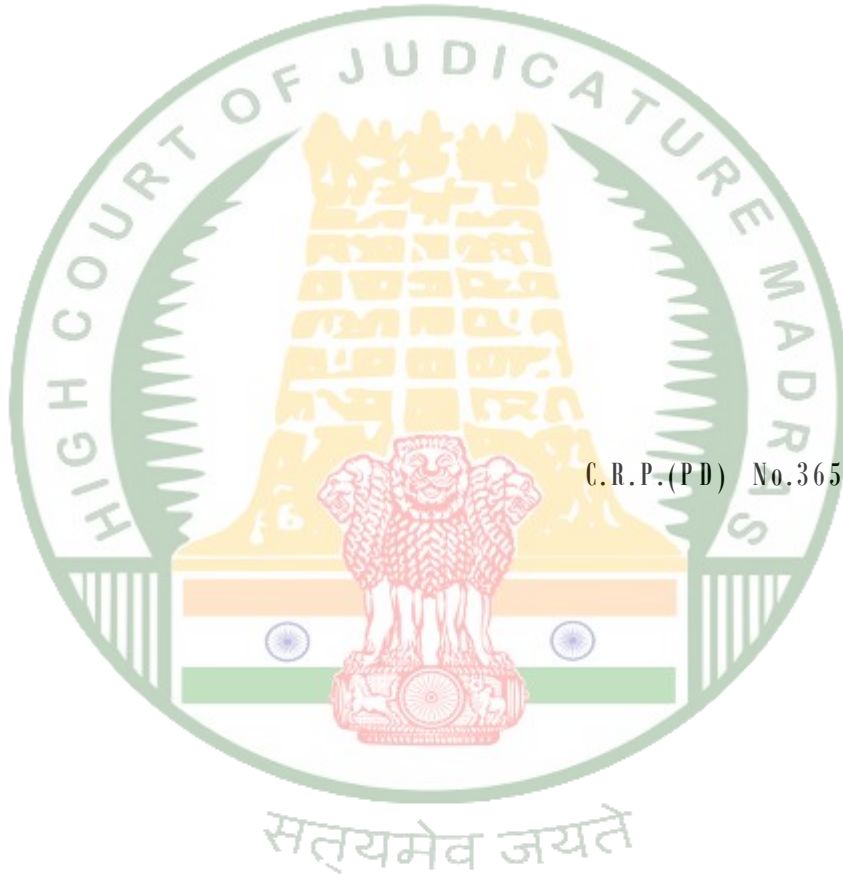
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G.K.ILANTHIRAIYAN, J.

pns



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