

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2021

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P.(PD) No.1811 of 2021

and C.M.P.No.14062 of 2021

Ramachandran ...Petitioner

Vs.

1. Arjunan

2. Danapal

...Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 15.03.2021 passed in I.A.No.11 of 2021 in O.S.No.299 of 2014 on the file of the learned Sub Judge, Kallakuruchi.

For Petitioner : Mr.S.Madhusudanan

ORDER

This Civil Revision Petition is filed, to set aside the order dated 15.03.2021 passed in I.A.No.11 of 2021 in O.S.No.299 of 2014 on the file of the learned Sub Judge, Kallakuruchi.

2. The learned counsel for the petitioner submitted that the respondents filed a petition I.A.No.11 of 2021 in O.S.No.299 of 2014 under

Order XIII Rule 8 of C.P.C., seeking to impound the unregistered partition deed dated 14.02.1995 executed between the petitioner and the first respondent and send it to the Revenue Divisional Officer for fixing the stamp duty and penalty.

3.The affidavit filed in support of this petition shows that the respondents filed the I.A.No.11 of 2021 stating that the suit property and other properties were partitioned between the parties on 14.02.1995 and an unregistered partition deed was executed between them. Based on the said partition, the property has been divided and independently enjoyed by the respective parties. PW1 has also admitted his signature in the unregistered partition deed dated 14.02.1995. He also admitted that the parties had constructed building in the respective portions allotted to them and they are enjoying their respective houses. Therefore, this document has to be produced as evidence to prove the collateral purpose of their possession. The respondents are ready to pay the stamp duty and penalty and the said document has to be impounded and sent to the Revenue Divisional Officer for fixing the stamp duty and penalty.

4. This petition was contested by the petitioner before the trial

court alleging that this petition is filed belatedly and the case is pending for arguments. The alleged partition deed dated 14.02.1995 is not a true document and it is forged and created by the respondents. The petitioner emphatically denies his signature in the alleged partition deed dated 14.02.1995. In such circumstances, it is not necessary to impound the document and send it to the Revenue Divisional Officer for fixing the stamp duty and penalty.

5. Considering the rival submissions, the learned Sub Judge, Kallakuruchi, allowed the petition on 15.03.2021 in I.A.No.11 of 2021 in O.S.No.299 of 2014. As against the said order, the present Civil Revision Petition is preferred.

6. The learned counsel for the petitioner reiterated the submission that the alleged partition deed dated 14.02.1995 is not a true document but created by the respondents in a fraudulent manner. Further, the signature of the petitioner was obtained in a blank paper. Thereafter, the contents, of the alleged partition deed has been filed by the respondents, as per their own wish. Now petitioner denies his signature in the said partition deed. Therefore, learned counsel for the petitioner submitted that the order passed

by the learned Sub Judge, Kallakuruchi, directing to impound the document for fixing the stamp duty and penalty is not correct.

7. Considered, the submissions of the learned counsel for petitioner and perused the records. It is well settled preposition of law that even an unregistered document can be admitted in evidence for the collateral purpose for showing the possession. Precisely, the respondents filed I.A.No.11 of 2021 to mark the unregistered partition deed dated 14.02.1995, as evidence to show the collateral purpose and prove their possession and enjoyment of the suit property. To make the document admissible in evidence, the respondents now prepared to pay the stamp duty and penalty to be fixed by the Revenue Divisional Officer. It is claimed in the affidavit filed in support of this petition that the petitioner admitted his signature in the alleged unregistered partition document and the parties are enjoying their respective portion of the property allotted through this partition deed by constructing buildings.

8. Therefore, this Court is of the considered view that allowing the petition for payment of stamp duty and penalty and for production of the said document as evidence to show the collateral purpose of the respondents

is well within the legal bound. In this view of the matter, this Court confirms the order dated 13.05.2021 in I.A.No.11 of 2021 in O.S.No.299 of 2014 passed by the learned Sub Judge, Kallakuruchi and dismiss this Civil Revision Petition. No costs, consequently, connected miscellaneous petition is closed.

9. Further, the learned Sub Judge, Kallakuruchi, is directed not to be influence any of the observations made by this court in this petition, while disposing the main suit in O.S.No.299 of 2014 and it has to be decided on the basis of oral and documentary evidence and on the independent assessment by the court.

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01.09.2021

Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To

1.The Sub Judge, Kallakurichi

2.The Section Officer

VR Section

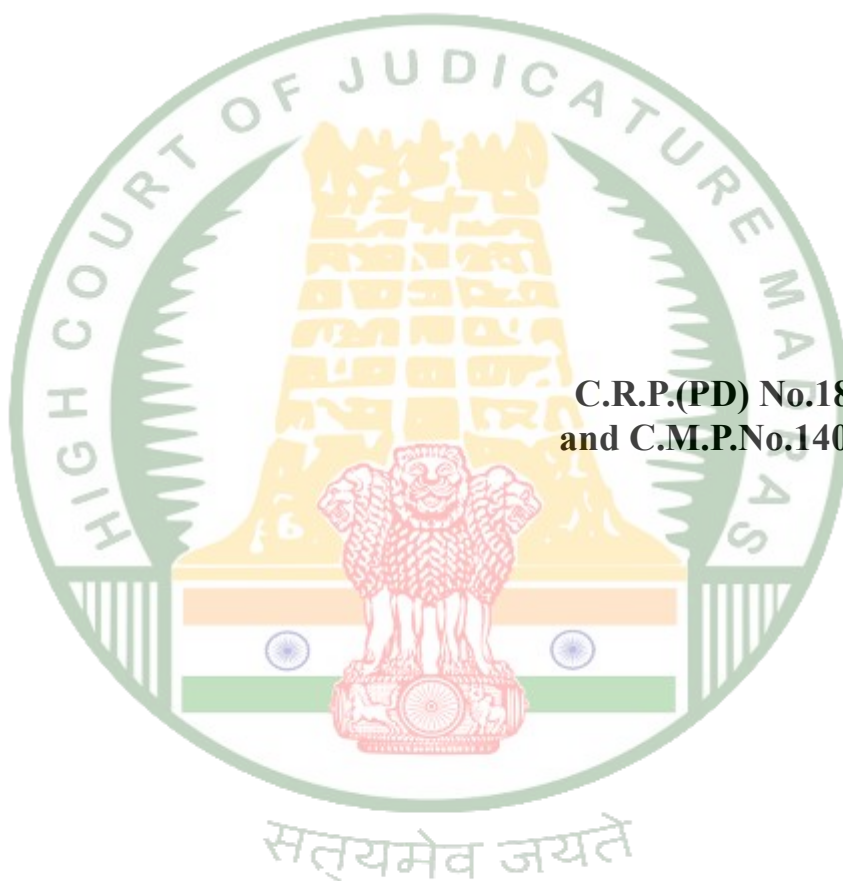
High Court of Madras.

5/6

C.R.P.(P.D).No.1811 of 2021

G.CHANDRASEKHARAN.J.

ep/Jer



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