

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 21.4.2021.

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

C.R.P.(PD) No.2272 of 2020

and

C.M.P.No.14216 of 2020

Govindhan

Petitioner

vs.

1. Govindu @ Govindammal
2. Saraswathi
3. Jayaprakash @ Balaji

Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the Fair and Decretal order dated 31.10.2019 passed in I.A.No.1 of 2019 in Sl.No.251 of 2019 in O.S.No.59 of 2015 on the file of the Principal District Judge, Dharmapuri.

For Petitioner : Mr.V.Sakkarapani

For Respondents : Mr.V.Raghavachari

ORDER

Third defendant in O.S.No.59 of 20015 pending on the file of the Principal District Judge, Dharmapuri is the revision petitioner herein.

2. Aggrieved against the order dated 31.10.2019 passed in I.A.No. of 2019 in Sl.No.251/2019, the present revision petition has been filed.

3. The said Application had been filed under Order 8 Rule 3 of the Code of Civil Procedure seeking to condone the delay in filing the documents on behalf of the revision petitioner/third defendant.

4. The suit was filed for partition. Along with written statement, it is normally expected that documents relied on are filed. The present petitioner/third defendant did not file such documents, but, later on filed an Application seeking to introduce a particular document which they claim to have been kept in some place by mistake and they could not be able to find out and they could find it out only recently and immediately, they have filed the Application seeking to file the same. The said document is neither stamped nor registered.

5. I deeply appreciate the reasoning given by the learned Principal District Judge, who refused to take the document on record by referring to Section 35 of the Indian Stamp Act, 1899 which says that instrument not duly stamped is inadmissible in evidence and Section 17 of the Indian Registration Act, 1908 which speaks about the documents which are compulsorily registrable.

6. The learned Judge found that the partition deed should be both stamped and also registered. The learned Judge, therefore, held that the said document is inadmissible in evidence,

7. Even if the said document is admitted, it would be subject to test during the evidence where it would once again suffer the same fate of being rejected for its non-registration. Therefore, I find no reason to differ with the said order of the learned Judge.

8. In ***Bipin Shantilal Panchal vs State Of Gujarat (2001) 3 SCC 1*** the Hon'ble Supreme Court had given some general directions to the Trial Courts with respect to marking of documents when they are introduced during the course of trial and revision petitions are filed questioning taking on file the documents thereby frustrating further progress of the trial. The Hon'ble Supreme Court held that such documents could be marked, subject to objections, but, placed a caveat stating that the objections should be addressed during the course of argument. However, in the said decision, the Hon'ble Supreme Court has also observed that that if the objection relates relating to documents with inadequate or deficit stamp, then the documents cannot be termed admissible.

C.V.KARTHIKEYAN, J.

Ssk.

9. The document now sought to be filed is not only inadequately stamped but, it is not stamped at all. It is also not registered. Therefore, the order passed by the learned Judge has to be upheld.

10. The revision petition is dismissed.

11. Presence of Mr.V.Lakshminarayanan is noted, but, the learned counsel was not called. No costs. The connected Miscellaneous Petition is also dismissed.

21.4.2021.

Index: Yes.
Internet: Yes.
ssk.

To

The Principal District Judge,
Dharmapuri.

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