

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2021

CORAM

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

CRP.PD.No.3727 of 2018
and CMP.No.20790 of 2018

Raghavan(deceased)

1.Rajalakshmi

2.Thiruganasambantham

3.Sumathi

4.Sundari

5.Malathi

..Petitioners

Vs.

Maruthamuthu(deceased)

Thavaseelan

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 11.07.2018 made in IA.No.1078 of 2017 in OS.No.238 of 2003 on the file of the District Munsif, Jayankondam.

For Petitioners : Mr.Senthil Vadivu M

For Respondent : Mr.S.Vijayakumar

ORDER

This Civil Revision Petition is filed to set aside the fair and decretal order dated 11.07.2018 made in IA.No.1078 of 2017 in OS.No.238 of 2003 on the file of the District Munsif, Jayankondam, thereby allowing the petition to mark the unregistered partition deed.

2. The petitioners are the plaintiffs and the respondent is the defendant. The petitioners filed suit for mandatory injunction and injunction in respect of the suit property. The case of the respondent is that the first plaintiff and his brother entered into partition deed dated 16.06.1985. Accordingly, the suit property was allotted to the brother of the first plaintiff i.e. Thirisangu. In turn, after demise of the said Thirisangu, his son Mr.Selvam sold out the property to the respondent herein. Therefore, the respondent filed petition to mark unregistered partition deed between the first plaintiff and his brother. The court below allowed the same only for collateral purpose.

3. Admittedly, it is a stamped unregistered partition deed between the first plaintiff and his brother. The learned counsel for the petitioners would submit that unregistered partition deed dated 16.06.1985 cannot be marked even for collateral purpose and it is not fit for collection of stamp duty and imposed penalty. Therefore, it ought not to have been permitted to mark as evidence. He further submitted under Section 17 of Indian Registration Act, partition deed is compulsorily registrable and it cannot be received in evidence under Section 49 of Indian Registration Act.

4. An unregistered partition deed is admissible in evidence for collateral purpose to prove the factum that the property which was partitioned between the first plaintiff and his brother. As per the partition deed, the suit property was allotted to the first plaintiff's brother and after demise of his brother, his son Mr.Selvam sold out the property in favour of the respondent herein. Therefore, the court below rightly allowed the petition and thereby permitted the respondent to mark the unregistered partition deed for collateral purpose. As such this Court finds no infirmity or illegality in the order passed by the court below.

5. Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

17.06.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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G.K.ILANTHIRAIYAN,J.

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To

The District Munsif,
Jayankondam



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