



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2021

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (PD) (MD) No.1149 of 2020

and

C.M.P.(MD) No.7335 of 2020

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1.R.Paul Ganam
2.R.Duraipandian
3.V.Dharmakrishnan
4.V.Radhakrishnan
5.R.Dhayanithi
6.D.Subash

.. Petitioners/Respondents 1 to 6/
Defendants 1 to 6

-vs-

1.Mr.R.Rengaraj

.. 1st Respondent/Petitioner/
Plaintiff

2.D.Uma

.. 2nd Respondent/7th Respondent/
7th Defendant

[2nd respondent remained ex-parte
before the Trial Court]

Prayer :- Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 09.11.2019 in I.A.No.73 of 2019 in O.S.No.99 of 2017 on the file of the Sub Court, Kovilpatti.

For Petitioners : Mr.B.Rajesh Saravanan

For R1 : Mr.M.S.Pon Senthil Kumar

ORDER

Defendants 1 to 6 are the revision petitioners before this Court challenging the fair and decretal order passed by the learned Subordinate Judge, Kovilpatti, in I.A.No.73 of 2019 in O.S.No.99 of 2017.

2.By the said order, the learned Judge has allowed the plaintiff to send the petition mentioned document to the Divisional Officer, Kovilpatti for the purpose of valuing the stamp duty and the Court fee payable thereon.

3.The brief facts, necessary for the disposal of this revision, are hereinbelow narrated :-

<https://hcservices.ecourts.gov.in/hcservices/>



3.1.The plaintiff has filed the above suit for recovery of a sum of Rs.1,50,000/- due towards rental advance together with interest at 12% per annum from the date of the plaint till the date of payment.

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3.2.It is the case of the plaintiff that he had been inducted as a tenant under defendants 1 to 4 and one Chandra under a Lease Deed, dated 24.02.2015 on a monthly rent of Rs.4,500/-. The plaintiff would submit that at the time of the signing of the said agreement, a sum of Rs.2,50,000/- was given as advance. The plaintiff would further submit that he had vacated the premises and except returning of a sum of Rs.1,00,000/-, the remaining sum of Rs.1,50,000/- was not paid. Hence, the suit.

4.The 2nd defendant had filed a written statement *inter alia* denying the very agreement and the receipt of the sum of Rs.2,50,000/-. He had admitted that the plaintiff had been inducted as a tenant. The 2nd defendant would submit that the plaintiff, when he had entered tenancy, had paid an advance of Rs.1,00,000/- and the monthly rent was fixed at Rs.3,000/-. On 01.12.2015, the lease had come to an end and the amount of Rs.1,00,000/- had been returned to the plaintiff. The 2nd defendant would further submit that the entire suit was a concocted one. The 2nd defendant, therefore, sought for dismissal of the suit. Pending the proceedings and when the matter was posted for trial, the plaintiff had come forward with the impugned application to send the document viz., the unregistered document for stamping after paying due penalty. The defendants had objected to the said application stating that the document in question was a document which was compulsorily registrable and it would not be sufficient, if the stamp duty is paid with penalty. The learned Subordinate Judge, Kovilpatti, however, proceeded to allow the application. Aggrieved by the same, defendants 1 to 6 are before this Court.

5.Heard the learned counsel for the petitioners and the learned counsel for the 1st respondent.

6.By virtue of the impugned application, the plaintiff would seek to have the unregistered Lease Deed to be sent to the Divisional Officer, Kovilpatti, for arriving at the stamp duty, stating that he was willing to pay the stamp duty together with the penalty therein. However, a perusal of the plaint would indicate that the Lease Deed dated 24.02.2015 was for a period of 2 years and therefore, the document is compulsorily registrable. A mere payment of the stamp duty with penalty would not cure the defect and the document in question could not be entertained in evidence, as it is a document which falls within the provisions of Section 17 of the Registration Act. The learned Judge has totally overlooked this factor and has erroneously allowed the application.



7.In the result, the Civil Revision Petition is allowed and the fair and decretal order, dated 09.11.2019 passed by the learned Subordinate Judge, Kovilpatti, in I.A.No.73 of 2019 in O.S.No.99 of 2017 is set aside. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

abr

Note:- In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

The Subordinate Judge,
Kovilpatti.

+1 CC to M/s.S.PONSENTHILKUMARAN, Advocate
(SR-36821[F] dated 01/12/2021)

+1 CC to M/s.B.RAJESH SARAVANAN, Advocate (SR-37263[F] dated
03/12/2021)

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