



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**RESERVED ON : 15.07.2021**

**PRONOUNCED ON : 12.08.2021**

**CORAM:**

**THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN**

**CRP (MD) No.1423 of 2014**

**MP (MD) Nos.1 and 2 of 2014**

**(Through Video Conferencing)**

WEB COPY

S.Saraswathi Ammal

... Revision Petitioner/Petitioner /  
Defendant No.1

Vs

1. Kovil Raj

... Respondent / Respondent No.1 /  
Plaintiff

2. Muthu

... Respondent / 2<sup>nd</sup> Respondent /  
Defendant No.2

**Prayer:-** This Civil Revision Petition has been filed, under article 227 of Constitution of India against the order dated, 03.01.2014, made in IA.No.939 of 2013 in OS.No.2 of of 2012, by the District Munsif Court, Sathankulam.

For Petitioner : Mr.C.K.M.Appaji

For Respondent : Mr.Sureshkumar

for Mr.V.Natarajan-R1

R2-No Appearance

### **ORDER**

1. This Civil Revision Petition has been filed, against the order dated, 03.01.2014, made in IA.No.939 of 2013 in OS.No.2 of of 2012, by the District Munsif Court, Sathankulam.

2. The facts of the case, in a nutshell, are that the 1st Defendant is the Petitioner and the Plaintiff and the 2nd Defendant are the Respondents. The suit was filed for declaration of title and mandatory injunction. In the suit, the 1st Defendant had filed the above application, seeking to eschew Ex.A16, and since the said prayer was denied by the impugned order, this Civil Revision Petition has been filed.

3. The learned counsel for the Petitioner has submitted that when Ex.A16 is an unregistered and insufficiently stamped document and when the said document was not filed in the plaint, but it was shown to DW.1 during the cross examination, without impounding



the document, it cannot be taken in evidence and hence, the court below erred in rejecting the said document.

4.The learned counsel for the 1<sup>st</sup> Respondent has submitted that when Ex.A16 was marked through DW.1, there was no objection and that Ex.A16 was filed only for collateral purpose and that since the property covered under Ex.A16 is an immovable property, namely, house in a dilapidated condition, it need not be registered and consequently, the question of payment of stamp duty does not arise and that there is also no claim made by the 1st Defendant over the property mentioned in Ex.A16 and that only to drag on the proceedings, the application had been filed and in such circumstances, this Civil Revision Petition is liable to be dismissed.

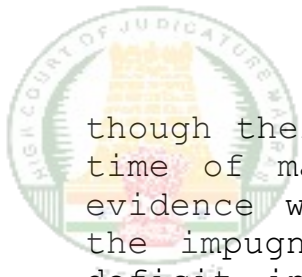
5.This court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.

6.Admittedly, Ex.A16 dated 11.12.2009 is the unregistered sale deed in respect of a house property and when it was marked at the instance of the Plaintiff, through DW.1, there was no objection. According to the Petitioner, when the said document was an unregistered and also insufficiently stamped document, it ought to have been rejected. According to the 1st Respondent, when a document had once been admitted in evidence, the same cannot be questioned at any stage of the suit on that ground.

7.Section 17 of the Registration Act deals with immovable properties requiring registration under that Section. Ex.A16 is the sale deed, relating to house property and hence, it ought to have been necessarily registered and adequately stamped.

8.As per the provisions of the Indian Stamp Act, when a document chargeable to stamp duty and produced into the Court in a proceedings before it, is found by that court to be either not stamped at all or is insufficiently stamped, it is bound to impound it, by way of collection of duty or deficit in stamp duty with or without penalty. Even in a situation where a document was produced, but it was not tendered in evidence, such a duty of impounding, is cast on the court. Therefore, in this case, at the time when Ex.A16 was sought to be marked and when it was brought to the notice of the Court below that it was insufficiently stamped, the court below ought to have passed an order, at the first instance, for impounding the document and then proceeded to admit the same in evidence. But, the court below had failed to do such an exercise.

<https://hcservices.ecourts.gov.in/hcservices/> the above reasons, this Court is of the view that



though there was no objection on the side of the Defendants at the time of marking Ex.A16, it ought not to have been admitted in evidence without impounding it. Accordingly, while setting aside the impugned order, the court below is directed to assess the deficit in stamp duty and penalty payable for Ex.A16 under the relevant provisions of the Indian Stamp Act and on such assessment, the 1st Respondent is directed to pay the same, within a period of fifteen days from the date of receipt of a copy of this order, failing which, Ex.A16 shall stand rejected automatically, without any further reference to the Court or it shall not be considered in evidence.

10. With the above directions, this Civil Revision Petition is disposed of. No costs. Consequently, the connected MPs are closed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Srcm

To

The District Munsif Court,  
Sathankulam.

Copy to

The Section Officer,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai. (2 Copies)

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-26101[F] dated 12/08/2021)

CRP (MD) No.1423 of 2014  
12.08.2021

ES (CO)

SB(13.09.2021) 3P 5C