



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.01.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP.PD(MD).No. 608 of 2014 and

M.P(MD).No.1 of 2014

WEB COPY

Duraichi

... Petitioner/Petitioner/Plaintiff

Vs.

1.Ganesan

2.Petchiammal

... Respondents/Respondents/Defendants

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order passed in I.A.No.756 of 2013 in O.S.No.67 of 2013, dated 02.01.2014 on the file of the District Munsif - cum - Judicial Magistrate, Shencottah.

For petitioner : Mr.N. Ganagasabapathy

For respondent : No appearance.

ORDER

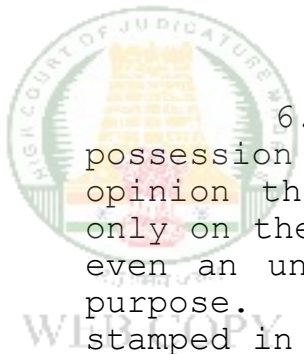
Despite the service of notice on the respondents, they have not appeared either in person or through their counsel duly instructed.

2. This revision is against the order of the Trial Court refusing to admit the document, dated 19.04.2007 on the ground that it is neither stamped nor registered.

3. The nomenclature of the document reads as as follows: "ரூ. 3,000/- க்கு கிரையம்". It shows that it is a recognition of a transfer of the title effected at an early date.

4. The learned counsel appearing for the petitioner would contend that this document amounts to a sale and therefore, the learned trial Judge was wrong in refusing to receive the document.

5. Reading of the document as a whole would show that it is a sale in favour of the petitioner. There is no question of unregistered sale or a sale document which records the past transaction being exempted from either stamping or registration. The document is written on 19.04.2007 in Twenty Rupees stamp papers. Consideration paid is Rs.3,000/-. Therefore, it is clear that the document is insufficiently stamped. I, therefore, find some force in the contention of the learned counsel for the petitioner.



6. The document can be looked into to establish the possession of the property on the date of the suit. I am of the opinion that the trial Judge was wrong in rejecting the document only on the ground of want of registration. It is well settled that even an unregistered document could be looked into for collateral purpose. However, the Court should ensure that the document is stamped in accordance with law before it is received. Under Section 33 of the Indian Stamp Act, 1899, the Court has power to receive the documents which are insufficiently stamped and send them for proper stamping to the Collector. The Court below has not followed the said procedure in the case on hand. Therefore, this revision petition is allowed and the order of the trial Court is set aside. The trial Court is required to impound the document and send it to the Collector for determination of the stamp duty and penalty and receive the document in evidence after the payment of the stamp duty and penalty and proceed with the trial. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)

trp

To

The District Munsif - cum - Judicial Magistrate, Shencottah.

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