



C.R.P(PD).No.859 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P.(PD).No.859 of 2022
and C.M.P.No.4354 of 2022

1.Selvi
2.Manikandan
3.Arivuvel

...Petitioners

..Vs.

K.N.Kuppusamy Educational Trust,
Rep by its Managing Trustee,
K.K.C.Senthil Kumar

..Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of

India, against the fair and decreetal order dated 02.12.2021 made in I.A.No.3 of

2021 in O.S.No.93 of 2017 on the file of the Sub Court, Jayankondan.

For Petitioners : Mr.A.Thiyagarajan

For Respondent : Mr.Abishek Jenasenan

ORDER

This Civil Revision Petition has been preferred challenging the order dated 02.12.2021 made in I.A.No.3 of 2021 in O.S.No.93 of 2017 on the file of the Sub Court, Jayankondan.



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2.Heard the learned counsel for the petitioners as well as the learned counsel for the respondent and perused the entire materials available on record.

3.The revision petitioners are the defendants, against whom, the respondent/plaintiff filed the said suit for the relief of declaring the decree passed in O.S.No.41 of 1983 and the proceedings subsequent to the same are null and void in view of the family arrangement dated 20.06.1990. During the pendency of the suit, the respondent has filed an interlocutory application in I.A.No.3 of 2017 for seeking leave of the Court to mark the partition muchilika dated 20.06.1990 and the same was allowed. Aggrieved over that, the petitioners have preferred this revision petition.

4.The learned counsel for the petitioners submitted that the partition muchilika dated 20.06.1990 is an unregistered document; the document which is drafted to convey title but remains unregistered, cannot be considered as partition muchilika; only as per the document, the parties have been allotted with their shares; hence, it ought to have been registered.



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5.It is further submitted that the document was not signed by all the share holders and hence it is an incomplete document; but the learned trial Judge, without considering the same, has chosen to allow the petition and hence it calls for interference.

6.The learned counsel for the respondent submitted that he has filed a suit to declare the decree passed in O.S.No.41 of 1983 as null and void, in view of the family arrangement dated 20.06.1990. Since the family arrangement can be received as evidence, even if it is unregistered, the learned trial Judge had chosen to receive it as an evidence. The validity or binding nature of the partition deed can be dealt during the trial of the suit and hence, the proceedings may be allowed to go on.

7.The respondent/plaintiff has filed the suit to declare the decree passed in O.S.No.41 of 1983 as null and void, in view of the family arrangement dated 20.06.1990. He is intended to produce the family arrangement as an evidence before the Court. The suit itself has been filed for declaring the decree as null and void. If the decree is declared as null and void, the respondent/plaintiff might get some share in the properties settled by virtue of the family



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arrangement dated 20.06.1990. If the decree is held to be valid and binding, the respondent/plaintiff cannot derive any right in pursuance of the alleged family arrangement dated 20.06.1990. Only if the impugned family arrangement is produced before the Court and the Court examines its validity, legality and binding nature, it cannot be render a finding on the said aspects and also the validity of the decree passed in O.S.No.41 of 1983. Since the purpose of marking the family arrangement is totally different in the context of the suit filed by the respondent/plaintiff, there need not be any fuss on its registration.

8.The learned counsel for the petitioners himself has stated that the document itself is incomplete and hence it cannot be taken into consideration at all. If the revision petitioners wish to prove before the Court successfully that the impugned document dated 20.06.1990 is not binding, not valid and incomplete, the learned trial Judge cannot decide on that without the production of the above said document. Neither the Court can render any finding nor the parties can place their submissions without the production of the family arrangement.



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9. Even though the document is allowed to be received and marked, the parties are still at liberty to challenge the validity, binding nature and its legality. In an entirely different context in which the impugned document is sought to be marked, it is inevitable for the Court to receive it as evidence. Hence I do not find any reason to interfere with the order of the learned trial Judge, except to reserve the right of the parties to make their submissions about the validity and binding nature of the impugned document.

10. In view of the above, this Civil Revision Petition is dismissed and the order of the learned Sub Judge, Jayankondan, dated 02.12.2021 made in I.A.No.3 of 2021 in O.S.No.93 of 2017 is hereby confirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

24.08.2022

vk

Index: Yes No

Speaking Order: Yes/No

To

1. The Subordinate Judge,
Jayankondan.
2. The Section Officer,
VR Section, Madras High Court, Chennai.

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R.N.MANJULA,J.

Vkr

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