



C.R.P.No.2721 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.2721 of 2022

and

C.M.P.No.14191 of 2022

V.Duraisamy

... Petitioner

Vs.

D.Subramaniyan

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, pleaded to set aside the order and decretal order dated 15.03.2022 made in I.A.No.3 of 2021 in O.S.No.146 of 2021 on the file of the Court of the District Munsif, Omalur.

For Petitioner : M/s.T.Dhanasekaran

For Respondent : M/s.B.Gopalakrishnan

ORDER

This Civil Revision Petition is filed challenging the order passed by the Court below dismissing the petition filed by the revision petitioner to reject the plaint under order 7 Rule 11 of C.P.C



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2. The respondent herein filed a suit for bare injunction in O.S.No.146 of 2021 against the petitioner. It is the case of the respondent that petitioner/defendant herein was the original owner of the suit property. It is the case of the respondent that suit property originally belong to the petitioner herein and he sold the same to the father of the respondent under a sale deed dated 05.06.1993 for sale consideration of Rs.4,80,000/-. It is also stated that right from the date of sale deed, the respondent's father had been enjoying the same without any hindrance from anybody and he executed a Will dated 07.05.2017 in favour of the respondent. It was also further stated after death of the respondent's father Will came into existence and he has been in possession and enjoyment of the suit property.

3. The petitioner herein filed a petition in I.A.No.3 of 2021 seeking rejection of the plaint on the ground that the sale deed relied on by the respondent is an unregistered sale deed. The respondent herein is not entitled to maintain the suit on the strength of the unregistered sale deed which will not convey any right to the respondent. The said application was dismissed by the Court below and aggrieved by the same the petitioner has come up before this Court by way of revision.



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4. The learned counsel for the petitioner vehemently opposed the order of the Court below on the ground that the core document relied by the respondent in support of his case is sale deed dated 05.06.1993 allegedly executed by petitioner in favour of the father of the respondent, which was an unregistered document, consequently, it will not convey any right to the respondent. It is the contention of the learned counsel for the petitioner that filing a suit based on unregistered sale deed, as if, he received right under the document, is nothing but an abusive process of Court.

5. I am unable to accept the contentions made by the learned counsel for the petitioner. The present suit is only a suit for injunction simplicitor. The petitioner can prove his lawful possession and maintain the suit.

6. It is settled law as held in ***Bondar Singh vs. Nihal Singh*** reported in ***MANU/SC/0193/2003***, an unregistered sale deed can be looked into to prove the nature and character of the possession. Therefore, based on the unregistered sale deed it is open to the respondent to prove his possession and maintain a suit for bare injunction. The genuineness, validity and admissibility of the documents relied



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on by the respondent cannot be gone into at this stage of considering the petition for rejection of the plaint.

7. Evidentiary value of the document has to be appreciated only at the time of the final disposal of the suit. In these circumstances, I do not find any illegality or irregularity in the order passed by the Court below. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

8. It is brought to the notice of this Court by the learned counsel appearing for the petitioner that pleadings are already completed. The suit is of the year 2021 and the same is only for bare injunction. In these circumstances, this Court is inclined to issue a direction to the Court below to dispose of the suit within a period of nine (9) months from the date of receipt of copy of this order.

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Index: Yes/ No
Speaking Order / Non-Speaking Order
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To
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1. The District Munsif,
Omalur.



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S.SOUNTHAR, J.

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