



C.R.P.(PD) No.2447 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.01.2022

C O R A M

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD) No. 2447 of 2021

and

C.M.P.No. 18530 of 2021

Sivakumar

....Petitioner

Versus

1. P.Andal

2. P.Rajappan

3. P.Suresh Kumar

...Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 01.10.2021 in I.A.No.1 of 2021 in O.S.No.42 of 2011 on the file of the District Munsif's Court at Sriperumbudur and to allow the petition with costs throughout.

For Petitioner : Mr. M.V.Seshachari

For Respondents : No Appearance



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ORDER

The respondents, though served, are not appearing either in person or through counsel duly instructed.

2. The order challenged in this revision is one rejecting, partially, the application filed by the petitioner, who is a defendant in OS.No.42 of 2011, seeking permission to produce certain documents. While allowing the application in respect of other documents, the Trial Court had rejected Document No. 4 alone. Document No. 4 is an unregistered and insufficiently stamped sale deed dated 2nd August 1991 for a sum of Rs.20,000/- which is purported to have been executed by the plaintiffs in the suit. The plaintiffs have sought for declaration of their title and recovery of possession. The defendant/petitioner herein, is resisting the suit contending that he has been in possession of the property ever since the date of document namely 2nd August, 1991. The Trial Court has refused to receive the document on the ground that the document, apart from being unregistered, is also insufficiently stamped.



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3. Mr. M.V.Seshachari, learned counsel for the petitioner, would vehemently contend that the Trial Court erred in rejecting the document. An unregistered document can be received in evidence for collateral purposes under Section 49 of the Registration Act.

4. In a suit for declaration of title and recovery of possession, a document intended to establish the possession of the defendant can be received in evidence for the collateral purpose of establishing the period of possession of the defendant. As regards the insufficiency in stamping, it is always open to the Court to impound the instrument and levy stamp duty and penalty on the same by invoking the provisions under Section 33 of the Indian Stamp Act. The wholesale rejection of the document in question, in my opinion, is not just and proper. Once it is found that the document can be admitted for a collateral purpose, if the party who seeks to produce the document cures the deficiency in stamping, the document ought not to have been rejected. Hence, the Revision stands allowed. The document in question namely the unregistered sale deed dated 02.08.1991 is directed to be received and it shall be marked subject to



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payment of stamp duty and penalty by adopting the due process of law as enumerated under Section 33 of the Indian Stamp Act. Consequently, connected miscellaneous petition is closed. No costs.

19.01.2022

Index : Yes / No
Internet: Yes
Speaking/non speaking order

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To
The District Munsif Court,
Sriperumbudur.



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R.SUBRAMANIAN, J

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