



C.R.P. No.2161 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.07.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. No.2161 of 2017

V.C.Kumarasami (died)
Indramani

W/o Ganesamoorthy

. . . Petitioner/3rd Defendant

Vs.

1.G.K.Kumarasamy
S/o KaruppaGounder

2.Leelavathi

W/o Late Ramaraj

3.R.Thangaraj

4.R.Vanivisalakshi

... Respondents/Plaintiffs

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 04.02.2017 passed in I.A.No.1084 of 2016 in O.S.No.117 of 2007 on the file of the Principal Subordinate Judge, Coimbatore.

For Petitioner : Mr.Shivakumar

For Respondents : Mr.M.Velmurugan

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ORDER

The above Civil Revision Petition has been filed against the order, dated 04.02.2017, passed in I.A.No.1084 of 2016 in O.S.No.117 of 2007 on the file of the Principal Subordinate Judge, Coimbatore.

2. The petitioner herein is the 3rd defendant in the suit and the suit has been filed by the respondents/plaintiffs for partition. At the time of filing written statement, the petitioner/3rd defendant could not file some important documents to prove her case. Therefore, she filed an application in I.A.No.1084 of 2016 to file some additional documents.

3. The trial court partly allowed the said I.A. and permitted to receive document No.2 - Power of Attorney, subject to proof and relevancy. With regard to document No.1, sale agreement, the Court below rejected the application. Aggrieved by the said order, the present Civil Revision Petition has been filed.



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4. The learned counsel appearing for the revision petitioner would submit that the revision petitioner herein/3rd defendant's claim is that she is the owner of the suit schedule property by virtue of the sale agreement, dated 15.04.1998 and to prove the same, she wants to mark the sale agreement as an exhibit. However, the trial court has rejected the said prayer on the ground that the said sale agreement is not a registered document.

5. According to the revision petitioner/3rd defendant, to prove her case, marking of the said sale agreement is necessary. In support of his contention, learned counsel for the petitioner relied upon the order of this Court in C.R.P. PD No.4576 of 2011, dated 25.08.2015 (***K.Murugan Vs. B.Ramalingam and other***).

6. Per contra, the learned counsel for the respondents would contend that the subject sale agreement is a fabricated one and created for the purpose of the suit. There is no reason adduced by the 3rd defendant for non filing of the said document at the time of filing written statement.



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WEB COPY 7. Heard both sides and perused the typed set of papers.

8. Admittedly, the sale agreement is dated 15.04.1998. At that point of time, registration of sale agreement is not compulsory one. As per the said sale agreement, possession and enjoyment has been transferred to the 3rd defendant. In such circumstances, the 3rd defendant prayed for marking the same as exhibit on her side. By amendment to Indian Registration Act, after the substitution of Clause 'g' to Clause 'f' of Section 17(1) of the Act, after 1.12.2012, registration of the sale agreement relating to sale of immovable property of the value of one hundred rupees and above was made compulsory.

9. In the instant case on hand, the sale agreement is dated 26.10.2005 and it is an unregistered document. In the considered opinion of this court, since amendment to Section 17(1)(f) was effected on and from 01.12.2012, registration was compulsory only after 01.12.2012. On the crucial date of the document in question i.e., prior to the amendment, it was not mandatory



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to register the agreement. Therefore, there is no impediment in marking the sale agreement dated 26.10.2005 as exhibit.

10. In view of the foregoing reasonings, the Civil Revision Petition is allowed. The learned trial Judge is directed to receive the document No.1 original sale agreement and mark the same as an exhibit on the side of the 3rd defendant. No costs. Consequently, connected Miscellaneous Petition is closed.

19.07.2022

Index : Yes/No
Internet : Yes/No
Speaking order/Non-speaking order
nvsri

To
1.The Principal Subordinate Judge,
Coimbatore.

2.The Section Officer, V.R.Section
High Court of Madras.

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J.NISHA BANU, J.

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