



C.R.P. (PD) Nos.4106, 4109 and 4212 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2022

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P. (PD) Nos.4106, 4109 and 4212 of 2019
and C.M.P.Nos.26812, 26815 and 27468 of 2019

C.R.P. (PD) No.4106 of 2019:

K.E.Madheswaran

S/o (Late) K.P.Emperumal

. . . Petitioner/Respondent/Plaintiff

Vs.

Shanmugam

S/o Ramasamy

. . . Respondent/Petitioner/Defendant

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 16.10.2019 made in I.A.No.7 of 2019 in O.S.No.346 of 2014 on the file of the 1st Additional District Munsif, Erode.

For Petitioner : Mr.E.C.Ramesh
For Respondent : Mr.R.Marudhachalamurthy



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C.R.P. (PD) No.4109 of 2019:

K.E.Madheswaran

S/o (Late) K.P.Emperumal

. . . Petitioner/Respondent/Plaintiff

Vs.

Haridas

S/o Varadarajan

. . . Respondent/Petitioner/Defendant

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 16.10.2019 made in I.A.No.7 of 2019 in O.S.No.344 of 2014 on the file of the 1st Additional District Munsif, Erode.

For Petitioner : Mr.E.C.Ramesh

For Respondent : Mr.R.Marudhachalamurthy

C.R.P. (PD) No.4212 of 2019:

K.E.Madheswaran

S/o (Late) K.P.Emperumal

. . . Petitioner/Respondent/Plaintiff

Vs.

Haridas

S/o Varadarajan

. . . Respondent/Petitioner/Defendant

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 16.10.2019 made in I.A.No.1 of 2019 in O.S.No.344 of 2014 on the file of the 1st Additional District Munsif, Erode.



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For Petitioner : Mr.E.C.Ramesh
For Respondent : Mr.R.Marudhachalamurthy

COMMON ORDER

The Revision Petitioners are the defendant in the suits in O.S.Nos. 346 of 2014 and 344 of 2014 on the file of the I Additional District Munsif, Erode, which was filed by the respondent/plaintiff for the relief of delivery of vacant possession and other consequential reliefs.

2.The defendant contested the suit. Both side witnesses were adduced. On the side of the defendant, a document named as 'Agreement' dated 29.12.1984 was marked as Ex.B3, which is an unregistered document. The said document is an unstamped document also. Therefore, the defendant filed applications to examine the attestor and scribe of the said document. The said applications were strongly objected by the plaintiff stating that the document as such inadmissible in evidence, hence defendant is not entitled to call for the witness, to support the said document. But the Trial Court allowed the applications with an observation that admissibility of Ex.B3 can be decided only at the final stage of the suits and



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not during the evidence and accordingly it was allowed.

3.Challenging the said finding, the plaintiff has preferred the present Civil Revision Petition.

4.During the pendency of this Civil Revision Petition, another petitions in C.R.P.Nos.4109 and 4212 of 2019 were also filed with similar set of prayers.

5.The learned counsel for the petitioner/plaintiff would submit that the Trial Court failed to take note of the fact that the Ex.B3 is an unstamped instrument, which cannot be admitted in evidence and liable to be rejected at the time of marking the document itself. Instead of that, the Trial Court marked the document and permitted the defendant to adduce the evidence to support that document, as such is unjust and unfair and liable to be set aside. Accordingly, prayed to set aside the orders dated 16.10.2019 and 18.07.2019.

6.The learned counsel for the respondent/defendant would submit that to defend his case, he produced the document, which was marked as Ex.B.3. But



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the Trial Court permitted to mark the said document alone. With regard to admissibility, the same has to be decided at the time of disposal of the main suit. Since, the Trial Court has rightly allowed the petitions filed to examine the witnesses, the Civil Revision Petitions are not maintainable in law.

7.Perusal of records would reveal that during the trial proceedings, while cross examining the P.W.1, on the side of the defendant, Relinquishment deed, unstamped document was marked as Ex.B.3. At the time of marking of the said document, it was objected by the petitioner/plaintiff. Though it was objected, the said document was marked before the Court below as Ex.B.3. It is settled preposition of law, that admissibility of the document could be decided only at the time of adjudicating the issues between the parties, after conclusion of evidence. The Trial Court has rightly marked the said document, subject to proof and relevancy. Further, admissibility of the document could be decided at the time of disposal of the suit. Hence, the orders made in I.A.No.7 of 2019 dated 16.10.2019 and I.A.No.1 of 2019 dated 18.07.2019 are hereby confirmed.

8.Accordingly, the Civil Revision Petitions stand dismissed. Further, the



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suits are pending from the year 2014, the learned I Additional District Munsif, Erode is directed to dispose of the suits in O.S.Nos.344 and 346 of 2014 within a period of six months from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petitions are closed.

01.11.2022

Index : Yes/No
Internet : Yes/No
Speaking order/Non-speaking order
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To
1.The I Additional District Munsif, Erode.
2.The Section Officer, V.R.Section, High Court of Madras.



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T.V.THAMILSELVI,J.

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