



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2022

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD) No.1281 of 2021

and

C.M.P. (MD) No.7416 of 2017

Palanisamy

...Revision Petitioner/Petitioner/
Defendant

Vs.

Vaiyapuri

...Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 18.02.2020 passed in I.A.No.2 of 2019 in O.S.No.285 of 2013 on the file of the District Munsif Court, Lalgudi and thereby allow the Civil Revision Petition.

For Petitioner	:Mr.M.R.Srinivasan
For Respondent	:M/s.M.Anbarasi

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order, dated 18.02.2020 in I.A.No.2 of 2019 in O.S.No.285 of 2013 passed by the learned District Munsif, Lalgudi.

2.The parties are referred to as per the rank mentioned before the Court below.

3.The plaintiff has filed a suit in O.S.No.285 of 2013 on the file of the learned District Munsif, Lalgudi, for declaration and injunction. During the pendency of the suit, the defendant has filed a petition in I.A.No.2 of 2019 in O.S.No.285 of 2013 under Section 151 of Civil Procedure Code, to admit and mark the counter claim document No.3, namely; Sale deed, dated 03.04.1998 as exhibit B series, which was unregistered document. The said petition was dismissed on 18.02.2020 on the ground that the unregistered document cannot be received and marked. Aggrieved over the same, the revision petitioner/defendant is before this Court.

4.Heard on either side.

<https://hcservices.equityrev.in/hcservices>
5.The plaintiff has filed a suit for declaration of title and permanent injunction. The petitioner/defendant has also filed written statement and pleaded that he is in adverse possession from



the date of unregistered sale deed i.e., 03.04.1998 and he is in continuous possession of the suit property. The unregistered document cannot be looked into to prove the title. But, the signature in the unregistered sale deed was admitted by the plaintiff and the defendant. So, the defendant has to prove the possession. To prove the possession, the unregistered sale deed can be received and looked into. The petitioner/defendant cannot claim any how through the unregistered sale deed.

6.The learned counsel appearing for the respondent has submitted the Judgment reported in **2015(1) LW Page 137** in the case of **Ramalingam Vs. Ramachandran**, regarding partition deed. The partition also claimed right through a partition deed.

7.But, in the case on hand, the defendant has also pleaded that he is in adverse possession. So, to prove the possession from the date of execution of the sale deed, but for collateral purpose. Since the signature in the unregistered sale deed was admitted by both the plaintiff and the defendant, the relevancy of the documents will be decided at the time of Judgment.

8.The unregistered documents will be looked into corroboration with some documents for possession.

9.With these observations, this Civil Revision Petition is allowed by setting side the fair and decreetal dated 18.02.2020 in I.A.No.2 of 2019 in O.S.No.285 of 2013 passed by the learned District Munsif, Lalgudi. The learned District Munsif, Lalgudi is directed to receive the document and relevancy of the document only looked into at the time of Judgment. Each and every case stands on its own pleadings. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ksa

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.



To

The District Munsif,
Lalgudi.

+1 CC to M/s.D.SELVANAYAGAM, Advocate (SR-6067[F] dated 14/02/2022)

+1 CC to M/s.R.NANDA KUMAR, Advocate (SR-5770[F] dated 11/02/2022)

C.R.P. (MD) No.1281 of 2021

10.02.2022

MGJ(15.03.2022) 3P 4C