IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.73 of 2018
and C.M.P.No.309 of 2018

1. Pattammal
2. Muthulingam
3. Velmurugan
4. Arumugam ... Petitioners

Vs.

1.Mani
2.Devaki ... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 23.06.2017 in I.A.No.45 of 2017 in O.S.No.14 of 2013 on the file of the II Additional District Munsif Court, Virudhachalam.

For Petitioners : Mr.G.Surya Narayanan

For Respondents : Mr.J.Antony Jesus

O R D E R

Heard the learned counsel for the petitioners and the learned counsel for the respondents. I have carefully gone through the records.

2. The revision arises against an order passed by the learned II Additional District Munsif, Virudhachalam, dated 23.06.2017, in I.A.No.45 of 2017 in O.S.No.14 of 2013.

3. The civil revision petitioners are the plaintiffs and the respondents are the defendants. The suit in O.S.No.14 of 2013 is for declaration of title and for permanent injunction. In this suit, an application in I.A.No.45 of 2017 was taken out by the plaintiffs for the purpose of impounding the document marked as Ex.A1.

4. According to the plaintiffs, the document suffers deficit stamp duty and therefore, the Court should impound it and send it to the Collector of Stamps for recovery of the difference between the actual stamp duty payable and actual stamp, which has been engrossed from the document.

5. The trial Court had come to a conclusion that the document has already been exhibited and marked in evidence as Ex.A1, there is no necessity to send the document for collection of deficit stamp duty and dismissed the application. Challenging the same, the plaintiffs have presented the civil revision petition.

6. The position of law laid down by the trial Court is correct. An unstamped document cannot be received as an evidence for any purpose under Section 35 of the Stamp Act. However, if the document is received in evidence and has been exhibited before the Court, then it gets the protection of Section 36 of the Stamp Act. Neither the plaintiff nor the defendant can go back and challenge the validity of the document on the basis of the deficit stamp duty. It is only the Chief Controlling Revenue Authority (CCRA), who can challenge the same, that too in the procedure provided under Section 61 of the Stamp Act. As the document has already been exhibited and marked in evidence, there is no impediment to rely upon the same. The fear expressed by the learned counsel for the petitioners is that the Court might not accepted the document is unfounded, as Section 36 of the Stamp Act comes to his protection.

7. In the light of the above, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

19.07.2023
(3/3)

Index:Yes/No
Speaking Order :Yes/No
Neutral Citation:Yes/No
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To
II Additional District Munsif, Virudhachalam.

V.LAKSHMINARAYANAN,J.

Kj

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(3/3)