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C.R.P.No.2384 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No.2384 of 2019
and C.M.P.No.15543 of 2019

Janakirama Reddy (Deceased)

1. Kasthuri
2. Santhanakumar
3. Karpagam
4. Master Ponmani
5. Indhumathi
- Both minors are rep.
by their natural guardian
mother Karpagam
6. S.Malar
7. Raveendran

... Petitioners

Vs.

Chakrapani Reddy (Deceased)

1. Kothandapani Reddy
2. Sasikala
3. A.Gopi
4. Ramdoss
5. Nataraj
6. Sarasammal
7. Sudha
8. Parameswari
9. Soori
10. Mani.

... Respondents



C.R.P.No.2384 of 2019

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and final orders dated 12.04.2019, passed by the learned District Munsif, Thiruvallur, in I.A.No.1245 of 2018 in O.S.No.340 of 2004.

For Petitioners : Mr.S.Ilamparithi

For Respondents
For R1, R4 to R10 : Mr.P.Mallikarjun
For Mr.V.Raghavachari
For R2 : Mr.A.R.Suresh
For R3 : No appearance

ORDER

This Civil Revision Petition has been filed as against the fair and decreetal order dated 12.04.2019, passed by the learned District Munsif, Thiruvallur, in I.A.No.1245 of 2018 in O.S.No.340 of 2004, thereby dismissing the petition filed to receive the document viz., the letter of release dated 30.11.1983 and mark the evidence as one of the exhibits of the petitioners' herein.

2. The petitioners are the plaintiffs and the respondents are the defendants. The petitioner filed suit for declaration and permanent



C.R.P.No.2384 of 2019

injunction in respect of the suit property. The case of the petitioners is that the letter of release dated 30.11.1983 is a bonafide one and was given by three brothers of the petitioner's father and it was not induced by fraud, coercion or undue influence and it was prepared after oral family arrangements for the purpose of record. It does not create or extinguish any rights in the suit property and it can be marked as document.

3. On a perusal of the document dated 30.11.1983, it is nothing but release deed executed by the first and second respondents and one deceased Bakthavatchala Reddy, thereby released their right in respect of the suit property and released in favour of the petitioners herein on 30.11.1983. Therefore, it requires compulsory registration. In fact, the family arrangements reduced in writing purporting to create, declare, assign, limit or extinguish any right, title or interest of any immovable property should be stamped and registered and also categorically held that documents if required to be stamped but not so stamped cannot be looked into for any purpose.

4. Heard Mr.S.Ilamparithi, learned counsel appearing for the



C.R.P.No.2384 of 2019

petitioners and Mr.P.Mallikarjun, learned counsel appearing for the respondents 2,4 to 10 and Mr.A.R.Suresh, learned counsel appearing for the second respondent.

5. The learned counsel appearing for the petitioner relied upon the judgment reported in *AIR 1966 SC 292* in the case of *Tek Bahadur Bhujil Vs. Debi Singh Bhujil and ors*, in which the Hon'ble Supreme Court of India held that family arrangement as such can be arrived at orally. It would serve the purpose of proof or evidence of what had been decided between the brothers. It was not the basis of their right in any form over the property which each brother had agreed to enjoy to the exclusion of the others. Whereas in the case on hand, the petitioners intended to mark the document dated 30.11.1983 which is the release document thereby relinquished the right in respect of the petitioner. Therefore, the above judgment is not applicable to the present case.

6. The learned counsel appearing for the petitioners also relied



C.R.P.No.2384 of 2019

upon the judgment dated **07.10.2005**, passed by the Hon'ble Supreme Court of India in the case of ***Amteshwar Anand Vs. Virender Mohan Singh***, in ***Appeal (Civil) No.6326 of 2005***, which held that Section 17(1) of the Registration Act, 1908 insofar as it is relevant, requires under Clause (b) thereof, registration of non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish whether in present or in future, any right, title or interest. Further held that one of the exceptions made in Section 17(2) of the Registration Act, pertains to any composition deed. In other words all composition deeds are exempt from the requirement to be registered under the Registration Act. The transaction between the members of the same family for the mutual benefit of such member is the composition deed.

7. However, in the case on hand as aforesaid the document dated 30.11.1983, is the release deed thereby relinquished the right in favour of the petitioners. Therefore, the above judgements are not applicable to the present case and hence, the Court below rightly dismissed the petition and this Court finds no infirmity or illegality in the order passed by the Court



C.R.P.No.2384 of 2019

below.

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8. Accordingly, the Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

10.01.2023

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts

To

1. The District Munsif,
Thiruvallur.



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C.R.P.No.2384 of 2019

G.K.ILANTHIRAIYAN, J.

rts

C.R.P.No.2384 of 2019
and C.M.P.No.15543 of 2019

10.01.2023