



CRP.No.531 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2023

CORAM:

THE HONOURABLE MRS.JUSTICE **T.V.THAMILSELVI**

CRP.No.531 of 2023 and
CMP.No.4348 of 2023

1.Umadevi
2.V.Natarajan

... Petitioners

Vs.

R.Venkatesan

... Respondent

PRAYER: Civil Revision petition is filed under Article 227 of the Constitution of India to set aside the order and decretal order passed in IA.No.2 of 2021 in OS.No.333 of 2017 on the file of the Court of Principal District Munsif, Kanchipuram dated 12.10.2022.

For Petitioners : Mr.S.Prabhu

ORDER

This civil revision petition has been filed to set aside the order and decretal order passed in IA.No.2 of 2021 in OS.No.333 of 2017 on the file of the Court of Principal District Munsif, Kanchipuram dated 12.10.2022.



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2. The revision petitioners herein are the defendants in the suit in

OS.No.333 of 2017. The said suit was filed by the respondent herein for relief of permanent injunction. The contention of the plaintiff is that he cultivated the land and raised casuarina trees through unregistered sale letter dated 22.02.1997 said to be executed by the first defendant. Thereafter, he is cultivating the land. The said suit was strongly objected by the defendants by filing written statement. Now PW1 was examined on his side. The said unregistered sale letter was marked as Ex.A1. Now the petitioners / the defendants filed application to reject the said Ex.A1 document under Order 13 Rule 3 and Section 151 of CPC in IA.No.2 of 2021 before the Principal District Court, Kancheepuram. The said application was strongly objected by the plaintiff. On hearing both sides, the trial court dismissed the said application stating that the said unregistered document is related to casuarina trees and it comes under the category of standing timber and it is not an immovable property. So even if it is unregistered, it needs no registration as per law. Accordingly, the said application was dismissed. Challenging the said findings, the defendants have preferred this revision.



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3. The learned counsel for the petitioners submits that if Ex.A1 is unregistered, it has no legal sanctity as per Sections 17 and 49 of Indian Registration Act and it has no evidentiary value and hence the said document Ex.A1 has to be rejected. But the trial judge erroneously marked the same and permitted the plaintiff to adduce evidence and it is not maintainable under law. To support his contention, he relied upon the judgment in the case of ***A.C.Lakshmipathy Vs. A.M.Chakrapani Reddiar and 5 Others*** reported in ***2001-1-LW 257***, wherein it is held as follows:

(Indian Stamp Act, S.35, Registration Act, S17, Estoppel – Document described as Memorandum recording partial partition of the family was sought to be marked during the cross examination while P.W.1 was being examined – Objection was raised on the ground that it is unregistered and unstamped document which is partly a partition deed and partly a settlement deed – Trial Judge held that it is an unregistered partition deed and can be admitted only for collateral purposes – Held, on appeal, the document was a Family Arrangement and was executed with the intention that it should constitute sole repository as a document of title – As it is not stamped and registered it could not be looked into for any purpose.



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4. He also relied upon the judgment in the case of ***S.Sivalingam Vs.***

A.Suryanarayan and 4 others in CRP.PD.No.1741 of 2014, wherein it is held as follows:

15. The following points emerge from the judgments relied on by the learned counsel for the parties.

(i) A document which has to be stamped and has to be compulsorily registered cannot be marked and cannot be relied on by the parties for any purpose including collateral purpose when the said document was not properly stamped and not registered.

(ii) If the party producing the same, relies on the said document for collateral purpose, it can be marked, provided the same is properly stamped.

(iii) If the document is insufficiently stamped and unregistered and the party producing the same offers to pay deficit stamp duty and penalty, the Court has to impound the said document and refer the same to the concerned Sub Registrar for determining the correct stamp duty payable on the document. On receipt of such determination, the Court has to direct the party to pay the deficit stamp duty and penalty. If the parties producing the same pays the deficit stamp duty and penalty, the document can be marked for collateral purpose. If the party fails to pay deficit stamp duty and penalty, the Court cannot admit the said document.



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16. The issue before this Court is - whether a document already marked can be rejected, pending trial before conclusion of trial and before delivering the judgment ?

5. In the above referred cases, if a document requires compulsory registration and if not registered, it has no evidentiary value. Though the said proposition is admissible, whether it applies to the facts of the case is to be decided. The plaintiff filed suit based on the unregistered sale letter claiming right over the casuarina trees valued more than Rs.15,000/- The contention of the defendants is that since it values more than Rs.100/-, document requires compulsory registration. But without which, the document was permitted to be marked as Ex.A1. So he prayed to rejected the same.

6. But on seeing the entire facts based upon unregistered letter, the plaintiff filed the suit claiming right over the casuarina trees. It will not come under the category of immovable properties. Furthermore, the said document was not objected at the time of marking on his side. It is settled proposition that mere marking a document would not amount to admission of the content. The defendants have every right to disprove the said document by adducing contra evidence. Only after recording both sides evidence, the trial judge is



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entitled to pass order considering the validity of the document. Therefore, the defendants are having right to defend the case by disproving the said document, but not at the stage of PW1's evidence. Therefore, the above referred authorities would not apply to the facts of the case and the findings given by the trial judge needs no interference by this Court.

7. Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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T.V.THAMILSELVI, J.

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To
The Principal District Munsif,
Kanchipuram

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