



C.R.P.No. 4516 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4516 of 2023

and

C.M.P.No.27059 of 2023

1.Felix Mary

2.Isabella

.. Petitioners

Vs

A.Dominic Saviour

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 30.06.2023 passed in I.A.No.02 of 2022 in O.S.No.14 of 2022 on the file of the District Munsif cum Judicial Magistrate, Yercaud.

For Petitioners

: Ms.Elizabeth Ravi

ORDER

This Civil Revision Petition is filed challenging the impugned order passed in I.A.No.2 of 2022 in O.S.No.14 of 2022, the plaintiffs' have preferred this revision.

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2. Before the trial Court, the defendant / respondent herein filed

an application to eschew the documents, Exhibits A2 and Ex.A3 from the evidence of plaintiffs' side, the reason assigned by him is that those documents are unregistered release deeds, which requires registration as per the Registration Act as well as it needs proper stamps as per Section 35 of Indian Stamps Act. That application was objected by the plaintiffs / petitioners herein stating that already documents were marked now, it cannot be eschewed.

3. On considering both submissions, the trial Judge held that those documents required by law is to be registered, if it is unregistered, it is inadmissible but it can be admitted for collateral purpose. Accordingly, the application was allowed. Challenging the said finding, the plaintiffs' have preferred this revision.

4. The learned counsel for the petitioners submitted that already documents were marked during the trial, at that time, objection was not raised by the defendant / respondent herein. After marking the documents,



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to eschew the same as such is not permissible since the defendant / respondent herein has not raised any objection to mark the documents but the trial Judge failed to take note of the fact and erroneously, allowed the application. Hence, the learned counsel prayed to set aside the same.

5. Admittedly, those two documents are unregistered but marked as Exs.A2 and A3 on the side of the plaintiffs / petitioners herein, at that time no objection was raised by defendant / respondent herein. It is a settled proposition that by marking of the documents would not amount to admits the contents of the documents. Even the trial Judge also made an observation that those unregistered documents can be used for collateral purpose. If at all the documents need further stamps, the Court has to give opportunity to the plaintiffs / petitioners herein to pay the deficit stamp, without which, the Court has eschewed the documents, as such is erroneous one.

6. Accordingly, the order passed by the trial Judge in I.A.No.2 of 2022 in O.S.No.14 of 2022 is set aside. Exs.A2 and A3 is ordered to be



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taken on file and plaintiffs / petitioners herein is directed to pay the deficit stamp, within two weeks from the date of receipt of copy of this order and thereafter, the trial Judge is directed to proceed with the trial and give the finding about Exs.A2 and A3 after the completion of the evidence on merits while disposing the case. Three weeks time is granted to send the documents for ascertaining the value in order to pay the deficit Court fee as per the manner known to law.

7. In the result, the Civil Revision Petition is allowed. No costs.
Consequently, connected miscellaneous petition is closed.

07.12.2023

Index :Yes/No
Neutral Citation :Yes/No
AT

To
The District Munsif cum Judicial Magistrate, Yercaud.



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T.V.THAMILSELVI, J.

AT

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