



C.R.P.(MD) No.63 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	19.07.2023
Delivered on	08.09.2023

CORAM

THE HON'BLE **MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI**

C.R.P.(MD) No.63 of 2020

and

C.M.P.(MD) No.325 of 2020

Veeranan

... Petitioner

Vs.

1.Ayammal

2.Muthupandi

3.Nagendraperumal

4.Selvendran

5.Manimegalai

6.Parasakthi

... Respondents

Prayer:- This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 18.10.2019 made in I.A.No.124 of 2019 in O.S.No.171 of 2013 on the file of the III Additional Sub Court, Madurai in so far as against the petitioner herein.



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For Petitioner : Mr.A.Arumugam
for M/s.Ajmal Associates

For Respondents : Mr.R.Manoharan

ORDER

This Civil Revision Petition has been preferred by the petitioner as against the fair and decreetal order dated 18.10.2019 made in I.A.No.124 of 2019 in O.S.No.171 of 2013 on the file of the III Additional Sub Court, Madurai in so far as against him.

2. According to the petitioner, the respondents/plaintiffs filed the suit in O.S.No.171 of 2023 before the III Additional Sub Court, Madurai for partition of the suit property and for allotment of 1/3rd share in the suit property to the respondents/plaintiffs. During the pendency of the suit, the petitioner/3rd defendant took out an application in I.A.No.124 of 2019 under Order 8 Rule 3 read with Section 151 of the Code of Civil Procedure, 1908 for receipt of the petition mentioned documents as additional documents

3. The above I.A. was resisted on the side of the respondents/plaintiffs stating that the first document is nothing but an unregistered Partition Deed and the second document is a Sale Deed which came into existence by virtue of the



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first document and the unregistered documents cannot be accepted as additional evidences in the suit.

4. *Vide* the impugned order, the Trial Court after considering the averments made in the affidavit and in the counter affidavit and the arguments advanced by the respective counsel, dismissed the I.A. in respect of the Document No.1 which is an unregistered Partition Deed on the ground that the same cannot be admitted in evidence even for collateral purpose and allowed the I.A. in respect of the other two documents. Against the rejection of the Documents No.1, the petitioner filed the present Civil Revision Petition.

5. The learned counsel for the petitioner would submit that the existence of the unregistered Partition Deed has clearly been pleaded in the Written Statement and the validity of the said document can be decided only at the time of writing Judgment in the main suit. It is further submitted that the said document is absolutely necessary for the purpose of deciding at what particular point of time, the adverse possession pleaded by the petitioner/3rd defendant is concerned and the date of commencement of adverse possession is vital for the purpose of finding out whether the period of 12 years has lapsed from the time of commencement of adverse possession. It is further submitted that the Trial



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Court while accepting two other documents ought to have accepted the unregistered Partition Deed for collateral purpose.

6. The learned counsel for the petitioner would further submit that in a suit for partition, where an unregistered and unstamped Partition is filed for evidence, it is duty of Court of law to decide transaction and scrutinize its legal implications and legal consequences. In support of his contention, he relied upon the decision of the Madras High Court (Principal Seat of this Court) in the case of **Manickam Vs. Chinnasamy and others**, reported in 2011 (5) CTC 206, in which, it was held that *“It is to be borne in mind that the objections/questions as to the admissibility of a certain document ought to be determined by a Court of Law, when they come up for consideration or determination instead of admitting the evidence in the first instance tentatively and observing the questions till the completion of the trial of the case. Ruling as to the admissibility of a document to be received in evidence must be short one. If the ruling is rendered by a Court of Law, then, there should not be any further hindrance of the conduct of a trial. If need be, a fuller reason may be given in the Judgment as per decision **Ponnammal Ammal V. Modern Stores, Tirunelveli through Partner Mahadev Iyer and others**, AIR (37) 1950 Madras 62.”*



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7. Thus, the contention of the petitioner is that the unregistered partition deed is relied upon by the petitioner/third defendant only for collateral purpose to establish his adverse possession in the suit property. He would further contend that the disputed document does not come within the purview of the Section 17 of the Registration Act, 1908. He would further contend that it is the question of fact whether a family arrangements require compulsory registration or not, to be determined in each case, based on the contents and interpretation of the documents and the surroundings circumstances of the case, by taking into consideration whether the document in question itself creates title or only acknowledges antecedent title to the property.

8. On the other hand, the learned counsel appearing for the respondents would submit that an unstamped and an unregistered document which ought to be stamped and registered cannot be admitted in evidence even for collateral purpose to be registered under Section 17(1)(b) of the Registration Act and when not registered, cannot be marked. The trial Court has rightly rejected above document. He therefore prays for dismissal of this Civil Revision Petition.

9. Heard on both sides and perused the records.



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10.The learned counsel appearing for the respondent would further submit that an unstamped and unregistered documents which are to be stamped and registered cannot be admitted in evidence even for collateral purpose, such document is a registrable document under Section 17(1)(b) of the Registration Act. Therefore, the trial Court has rightly held that the said document has to be stamped and it is compulsorily registrable and hence, inadmissible in evidence. To support his contention, he has relied upon the decision reported in 2017(4)TLNJ 353 (Civil).

11.The contention of the learned counsel for the petitioner is that the petitioner/3rd defendant is relying on the disputed partition deed only for collateral purpose to establish his adverse possession in the suit property. The Division Bench of this Court in the judgment reported in [2001(1) MLJ 1] = [2000 TLNJ 315] in the case of A.C.Lakshmipathi and another-Vs-A.M.Chakrapani Reddiar and others which is followed by the learned Judge of this Court in order dated 14.03.2011 in C.R.P No.4172 of 2010, wherein it has been held that unstamped and unregistered documents which are to be stamped and registered cannot be admitted in evidence even for collateral purpose. The said judgment and order are squarely applicable to the facts of the present case.



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12. Though whenever an objection is raised during the trial with regard to the admissibility of any document, the trial Court can make a note of such objections and mark the same subject to objection and decide the reliability of the said document at the stage of final judgment. But if the objection relates to deficiency of registration of a document, the Court has to decide the objections before proceeding further. Further, for the reason that unstamped and unregistered documents cannot be admitted in evidence even for collateral purpose.

13. Therefore, the learned trial Judge has rightly held that the said document has to be stamped and compulsorily registered and therefore, it is inadmissible in evidence. In such circumstances, there is no illegality or irregularity warranting interference by this Court in the order passed by the learned trial Judge in I.A.No.124 of 2019.

12. Accordingly, this Civil Revision Petition is dismissed. No cost. Consequently, connected Miscellaneous Petition is closed.

08.09.2023

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
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K.GOVINDARAJAN THILAKAVADI, J.

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To : The III Additional Sub Judge,
Madurai.

Pre-Delivery Order made in

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and C.M.P.(MD) No.325 of 2020

08.09.2023