



C.R.P(MD)No.148 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.04.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.148 of 2023

and

CMP(MD)No.720 of 2023

Mariya Francis	... Petitioner/3 rd Petitioner/3 rd Defendant.
	Vs.
1.Amarnath	... 1 st Respondent/1 st Respondent/Plaintiffs
2.John Mary	... 2 nd Respondent/1 st Petitioner/1 st Defendant
3.Irudhaya Mary	... 3 rd Respondent/2 nd Petitioner/2 nd Defendant
4.Alfonse	... 4 th Respondent/4 th Petitioner/4 th Defendant
5.Mercy Agnes Mary	... 5 th Respondent/5 th Petitioner/5 th Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed in I.A.No.2 of 2022 in O.S.No.50 of 2017 dated 19.10.2022 on the file of the Principal District Judge, Tiruchirapalli.

For Petitioner : Mr.K.S.Vamsidhar

For Respondents : Mr.N.Vignesh

ORDER

The plaintiff has filed this Civil Revision Petition under Article 227 of Constitution of India to set aside the fair and decreetal order



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passed in I.A.No.2 of 2022 in O.S.No.50 of 2017 dated 19.10.2022 on the file of the Principal District Judge, Tiruchirapalli.

2.The petitioner herein is the 3rd defendant before the learned Principal District Judge, Trichy, in O.S.No.50 of 2017. The suit has been filed by the first respondent to recover a sum of Rs.22,25,570/-, being the amount allegedly paid by the first respondent to the sixth respondent (6th defendant) to Samimuthu, the father of the respondents 2 to 5 and also the father of the petitioner herein. It is submitted that after the suit was filed, the first respondent/plaintiff filed I.A.No.1 of 2019 for marking some additional documents which were included the following three documents:-

S.No.	Date	List of the documents	remarks
1.	20.04.2014	Sale agreement among the sixth defendant and the plaintiff	Original
2.	26.07.2013	Sale agreement executed by the deceased Samimuthu in favour of the sixth defendant	Original
3.	26.07.2013	Sale receipt issued by the deceased Samimuthu in favour of the sixth defendant	original



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3.The said Interlocutory Application was allowed and therefore, the other respondents and the petitioner filed I.A.No.2 of 2022 to reject the documents as inadmissible in evidence. By the impugned order dated 19.10.2022, the Trial Court has dismissed the above suit.

4.It is submitted that the Trial Court has committed a error in allowing the application for marking of the above documents and the documents are unregistered documents. It is submitted that the documents cannot be relied in the light of Section 17 of the Registration Act, 1980.

5.The Civil Revision Petitions filed by the petitioner was opposed by the learned counsel for the respondents on the ground that the impugned order is well reasoned and requires no interference.

6.I have considered the argument advanced by the learned counsel for the petitioner and the learned counsel for the respondents.

7.The relevant portion of the impugned order dated 19.10.2022, reads as under:-



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“8.On perusal of IA.No.1 of 2019, the said application has been filed to receive the documents dated 26.07.2013 which is an agreement to sale with respect to the property said to be executed by Samimuthu and the sale receipt dated 27.07.2013. The said application was contested by the 3rd defendant and it was allowed.

9.Now the petitioners/defendants 1 to 5 who have filed this application not to receive the said sale agreement and sale receipt dated 26.07.2013 which is not sustainable for the simple reason that the suit has been filed for the recovery of money and further the objection which has been raised earlier by the 3rd defendant has been negated by this Court. Moreover on perusal of the rulings relied upon by the learned counsel for the respondent reported in,

2002 (2) CTC 246

In the High Court of Madras
(Madurai Bench)

Kasthuri

.... Petitioners

Vs

R.Hemalatha

... Respondent

Wherein it has been held that Specific performance of unregistered Sale Agreement-Receipt of unregistered Agreement in evidence, held to be maintainable. Since by receiving the documents alone will not enough to prove such documents and marking of those documents.

10.Apart from that, the 3rd defendant who has filed a written statement and he has not denied the execution of the Sale agreement dated 26.07.2013 by the deceased Samimuthu who is the father of the defendants 1 to 5, in para 4 of the written statement.

11.Apart from that, the present suit which has been filed only for the recovery of amount of Rs.22,25,750/- with subsequent interest which has been paid as an advance amount. In such circumstances, those documents may be even treated as acknowledgement of receipts of the suit amount. In such circumstances, the claim of the petitioners to reject those documents is not sustainable as



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rightly contended by the learned counsel for the respondents and the ruling relied upon by the petitioners are not at all applicable to the facts of the present case for the simple reason that the execution of those documents has not been denied and in the earlier application in IA.No.1/2019, the 3rd defendant who raised the same plea and moreover mere marking of those documents will not enough to prove those documents. Since the documents has to be marked subject to proof and its relevancy and prove through sufficient evidence.

12.Moreover, the claim made by the respondent/plaintiff is only to recover the amount given as an advance which he wants to refund with interest. In such circumstances, those documents can be treated only as an acknowledgement of receipts. If so, stamp duty paid is only Rs.1/-. Hence, no question of registration is required for the payment of money, since it was written in Rs.20/- stamp paper. Hence, considering in all those circumstances, the claim made by the petitioners to reject the documents cannot be sustainable and the reling relied upon by the learned counsel for the petitioners is not applicable to the facts of the present case. Hence, for the forgoing reasons, I do not find any merit in this petition. Hence, in view of my above discussions, this Court is not inclined to allow this petition. Accordingly, I answered the point.

- In the result, this petition is dismissed. No cost.”

8.On perusal of I.A.No.1 of 2019, the said application has been filed to receive the documents dated 26.07.2013 which is an agreement to sale with respect to the property said to be executed by Samimuthu and the sale receipt dated 27.07.2013. The said application was contested by the 3rd defendant/petitioner and it was allowed.



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9.In my view, though the first respondent is entitled to rely of unregistered documents in the light of Section 47 of the Registration Act, 1980, the documents as such cannot be allowed to be marked at the behest of the plaintiff. No averment to that effect is there the plaintiff. It has to be amended. No oral evidence can be allowed to record without an amendment to the plaintiff for allowing the petition. Therefore, I give an liberty to the first respondent/plaintiff to file an appropriate application to amend the plaintiff and to introduce the documents that has been allowed to be marked.

10.With the above liberty, the present Civil Revision Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

11.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
dss

To

1.The Principal District Judge,
Tiruchirapalli.

2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.



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C.SARAVANAN,J.

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