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C.R.P(MD)No.1826 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2023

CORAM

**THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN
THILAKAVADI**

C.R.P(MD)No.1826 of 2023

and

C.M.P.(MD)No.9123 of 2023

1.Sellappan

2.Gandhimathi

3.Chandra

4.Selvi

5.Balasubramani

... Petitioners/Respondents 1to5

/Plaintiffs

Vs.

1.Kannammal

2.Ramasamy

3.Palanisamy

4.Baskar

5.Shanthi

6.Jeevanantham

7.Karuppanan

8.Chandrakalai

9.Umadevi

10.Kalaiveni

11.Ramalingam

...Respondents/Respondents 6

to 13/Defendants 2,3,7to12



Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records in the fair and decreetal order dated 03.06.2023 passed in I.A.No.3 of 2022 in O.S.No.547 of 2011 on the file of the Principal District Munsif Court, Karur.

For Petitioners : Mr.N.Shyllappa Kalyan

ORDER

This Civil Revision Petition is preferred as against the fair and decreetal order, dated 03.06.2023 passed in I.A.No.3 of 2022 in O.S.No.547 of 2011 by the Principal District Munsif Court, Karur.

2.According to the revision petitioners, they have filed a suit in O.S.No.547 of 2011, before the Principal District Munsif Court, Karur, claiming 1/5th share in the suit properties. While so, the respondents 1 to 3/defendants 1, 4 and 6 to defeat the claim of the petitioners herein, moved an application in I.A.No.3 of 2022, to accept and mark the unregistered Muchalika, dated 17.01.1989 alleged to have been entered between the defendants 2, 4 and 6 and the same was objected by the petitioners/plaintiffs. The Court below allowed the said application for marking the document. Aggrieved over the same, the present civil revision petition is filed.



3.The learned counsel appearing for the petitioners would submit that unstamped and unregistered Muchalika is not admissible in evidence and cannot be considered as the basis for seeking right, title and interest.

4.To support his contention, he relied upon the decision of this Court in ***Saritha-vs-M.A.Shanmugham and others***, reported in **2022(3) CTC 862**, in which, it is held that,

“Stamp Act, 1899 (2 of 1899), Section 35 – Registration Act, 1908 (16 of 1908), Sections 17 and 49 – Unstamped and Unregistered Document – Admissibility as evidence – Unstamped or inadequately stamped not admissible in evidence for any purpose unless properly stamped – But on payment of Penalty under Section 35-A of Stamp Act, it can be stamped and admitted in evidence – Document creating / assigning rights in immovable property compulsorily registrable under Section 17 of Registration Act – Such document, if unregistered, cannot be received in evidence – Held, Family Arrangement or muchalika grants certain right/title to certain parts of properties to some individual while taking it away from others – Such document, being compulsorily registrable under Section 17, cannot be admitted in evidence, if unregistered – Unstamped and unregistered Muchalika not admissible in evidence and cannot form basis for seeking right, title and interest – Ratio laid down in *Yellappu Uma Maheshwari v. Buddha Jagadeeshwara Rao*, followed – Civil Revision Petition allowed.”



5.In view of the above, the fair and decreetal order, dated 03.06.2023 passed in I.A.No.3 of 2022 in O.S.No.547 of 2011 by the Principal District Munsif Court, Karur, is hereby set aside and the matter is remitted back to the trial Court to consider the observation made in the above cited case and to consider the petition afresh and to dispose the same on merits and in accordance with law.

6.With the above observation, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

26.07.2023

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

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To

1.The Principal District Munsif Court, Karur.

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



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K.GOVINDARAJAN THILAKAVADI, J.

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