



CRP.No.276 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.276 of 2024
and
CMP.No.1285 of 2024

Gandhimathi

...Petitioner

Vs.

1.Sellammal
2.Lakshmi
3.Anjalai

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 04.11.2023 passed in IA.No.4 of 2023 in OS.No.38 of 2021 on the file of the Additional District Court, Ariyalur and allow the revision.

For Petitioner : Mr.R.Venkatesulu
for Ms.Usha Ramman



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ORDER

This Civil Revision Petition is filed challenging the order passed by the Court below dismissing the application filed by the petitioner to receive an unregistered and unstamped family arrangement dated 21.04.1999 and mark the same as exhibit.

2. The respondents herein filed a suit for partition against the petitioner. The suit was resisted by the petitioner mainly on the ground that there was a family arrangement on 21.04.1999. The said document was filed along with the written statement. At the time of trial, the petitioner herein attempted to mark the said family arrangement through scribe of the document who was examined as DW2. The Court below after having a look at the documents came to the conclusion that partition of the properties had taken place under the document. Therefore, the same requires registration and payment of stamp duty.



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3. In view of the bar under Section 17 r/w 49 of the Registration Act and also Section 35 of the Indian Evidence Act, the Court below came to the conclusion that unregistered partition deed cannot be admitted in evidence and as consequence, the petition was dismissed. Aggrieved by the same, the petitioner is before this Court.

4. The learned counsel for the petitioner submitted that the document relied on by the petitioner is only a family arrangement which recorded a past transaction of partition. Therefore, it does not require any registration or payment of stamp duty.

5. The Court below in the impugned order extracted the recital found in the document dated 21.04.1999. The same was styled as partition deed between Sennappan son of Arumugam and Gandhimathi wife of Vadivelu. The recital found in the document makes it clear that the property covered under the family arrangement was enjoyed till 21.04.1999 jointly and it is an ancestral property. The properties mentioned in the 'A' Schedule



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allotted to the share of the Chennapan and the property mentioned in the 'B'

Schedule allotted to the share of Gandhimathi.

6. It is also stated that from the date onwards, the parties are entitled to exercise exclusive right over the properties allotted to them under the document. In such circumstances, the parties divided the ancestral properties by virtue of document dated 21.04.1999 and hence, it should be treated as regular partition deed and it cannot be treated as family arrangement evidencing past transaction.

7. In such circumstances, I do not find any error in the order passed by the Court below and accordingly, the Civil Revision Petition is dismissed. It is open to the petitioner to pay the stamp duty together with penalty and seek marking of document to prove collateral purpose, namely proving the nature of possession, if so advised. No costs. Consequently, connected Miscellaneous Petition is closed.

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To

The Additional District Court, Ariyalur.



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S.SOUNTHAR, J.

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