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C.R.P.No.404 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.404 of 2020 and
C.M.P.No.2122 of 2020

Safiullah

... Petitioner

Vs.

1.Sheganath Bee

2.Jaggira Bee

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, against the order and decretal order in I.A.No.750 of 2017 in O.S.No.16 of 2014 on the file of Principal District Munsif Court, Ulundurpet dated 07.11.2019

For Petitioner	: M/s.R.Poornima
For Respondent 1	: No appearance
For respondent 2	: M/S.C.Munusamy



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ORDER

The civil revision petition is filed challenging the order passed by the Court below dismissing the petition filed by the revision petitioner seeking to impound unregistered, unstamped sale deed dated 28.12.1995 and settlement deed dated 28.12.1995 for the purpose of collection of stamp duty together with penalty.

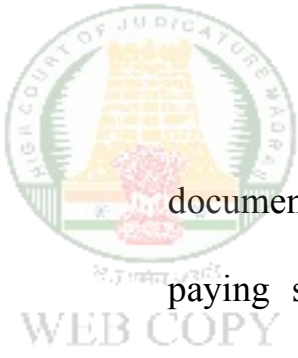
2. The respondents herein filed a suit for partition. The said suit was resisted by the petitioner by filing written statement. The petitioner in his written statement relied on sale deed and settlement deed executed by her father dated 28.12.1995. Since the said two documents are unregistered and unstamped document, the instant application has been filed seeking to impound the same for collection of stamp duty together with penalty to enable the petitioner to rely on those documents to prove nature of his possession over the property dealt with under the documents.



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3. The said application was dismissed by the Court below on the ground that father of the petitioner had no right to convey the entire property under the documents. It is settled law that an unregistered document cannot be admitted in evidence to prove the main purpose of the document namely conveyance of title under the document. However, an unregistered document can be admitted in evidence to prove nature of possession of the parties. Since the document is also unstamped one, in view of total bar under Section 35 of Indian Stamp Act, the petitioner wants collection of stamp duty together with penalty. Once the stamp duty together with penalty is collected in accordance with law, the document can be used for limited purpose of proving of nature of possession of the parties.

4. Therefore, the Court below ought not to have dismissed the application. Whether the father of the petitioner had full right over the property covered by the document or not is a question to be decided at the time of final disposal of the suit. Therefore, the petitioner is entitled to rely on the



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documents only for collateral purpose of proving nature of possession by paying stamp duty together with penalty. Accordingly, the civil revision petition stands allowed by setting aside the order passed by the Court below. The Court below is directed to impound the documents and collect stamp duty together with penalty.

5. In case, the petitioner pays the required stamp duty together with penalty in accordance with law, he is entitled to mark the said document for limited purpose of proving nature of possession.

6. It is made clear that the said document cannot be relied to prove transfer of title under the document.

7. With these observations, this Civil Revision Petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
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To

The learned Principal District Munsif Court, Ulundurpet



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S.SOUNTHAR, J.

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