



WEB COPY



C.R.P. No.595 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2024

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

C.R.P. No.595 of 2021

and C.M.P. No.5131 of 2021

Kalaiselvi W/o. Thanarasu

...Petitioner / Petitioner / Plaintiff

Vs.

1. Kulasekaran S/o. Thuvaraga Naidu

2. Kurusami S/o. Rathinam

.... Respondents / Respondents /

Defendants.

PRAYER: Civil Revision Petition is filed under section 227 of the Constitution of India, to set aside the fair and decreetal order dated 12.10.2020 made in I.A. No.1 of 2020 in O.S. No.221 of 2014 on the file of Principal District Munsif Court, Mayiladuthurai.

For Petitioner : Mr.B. Jawahar
for Ms. H. Kavitha

For Respondents : Mr. Muthukumar [for R2]
No appearance [for R1]

ORDER

The Civil Revision Petition is filed as against the order passed in I.A. No.1 of 2020 in O.S. No.221 of 2014 on the file of Principal District Munsif Court, Mayiladuthurai dated 12.10.2020, wherein the petitioner herein has filed a petition under Section 151 of Code of Civil Procedure for not to permit



C.R.P. No.595 of 2021

to mark the documents and the said petition was dismissed by the Trial Court.

Aggrieved by the order, the present civil revision petition is filed.

2. According to the petitioner, he is the Plaintiff in the main Suit and the 1st respondent herein has filed an application in I.A. No.559 of 2017 to receive the documents. The Trial Court, even after considering the objection made by the petitioner, allowed the application. Therefore, the petitioner filed a petition with the prayer that those documents cannot be marked, since they are unstamped and unregistered documents, but the Trial Court dismissed the said petition.

3. According to the respondents, they filed a petition in I.A. No.559 of 2017 to receive the documents and the said documents were already received subject to proof and relevancy. Against which, no any revision filed by the petitioner. Now he filed an another application for the same relief, which is already granted by the Court. Therefore, the Trial Court after taking into consideration came to the conclusion that the document which is sought to be marked, was already received by the Court subject to proof and relevancy and it is always open to the petitioner to raise his objection and the same will be decided along with judgment.



4. Before the Trial Court, no oral or documentary evidence adduced on either side. The Trial Court, after hearing both sides, dismissed the petition. Against the said dismissal order, the present civil revision petition has been preferred by the petitioner.

5. The learned Counsel appearing for the petitioner would contend that the respondent herein filed an application in I.A. No.559 of 2017 to receive the documents and the same was allowed. The documents sought to be received are unregistered and unstamped documents, and those documents are compulsorily registrable documents under Section 17(1) of Registration Act. Therefore, those documents cannot be marked and received as evidence. But the Trial Court failed to consider the same and dismissed the application and therefore, the order of the Trial Court is liable to be set aside.

6. The learned counsel appearing for the respondents would contend that though the documents are unregistered documents, those documents can be used for collateral purpose and the Trial Court also received the documents subject to proof and relevancy and already the Trial Court passed order in I.A. No.559 of 2017 and the same was not challenged. Now the petitioner has once again filed an another petition for the same relief. Therefore, the petition is not maintainable and the present civil revision petition is liable to be



C.R.P. No.595 of 2021

dismissed.

7. Heard both sides and perused all the materials available on record.

8. In this case, the 1st respondent filed an application in I.A No.559 of 2017 to receive the documents and the same was allowed by the Trial Court and the documents were also received subject to proof and relevancy. There is no any appeal or revision preferred as against the said order passed by the Trial Court. Now the petitioner has filed this petition not to mark those documents on the ground that those documents are unstamped and unregistered documents. Though the documents are unregistered documents, those documents can be received for collateral purpose, provided stamp duty penalty has to be paid by the respondents. But the trial Court, received the documents subject to proof and relevancy and it is also held that it is always open to raise any objection and it will be decided along with judgment. That observation is not correct and not in accordance with law.

9. In respect of stamp duty penalty, the Trial Court ought to have decided the case at the time of receiving and marking of documents itself. It is admitted by both the parties that the disputed documents have not been marked as exhibits so far and the Trial Court has only received the documents. Therefore, it is appropriate to direct the Trial Court to consider after providing



C.R.P. No.595 of 2024

sufficient opportunity to the parties and pass order in accordance with law. If the respondent paid stamp duty penalty and if any collateral purpose is established by the respondent, then the Court can decide the case on its own merits in accordance with law. The learned counsel for the respondents would contend that the document was produced only for collateral purpose, thereby nothing perverse in the order of Trial Court. Though the Trial Court has not marked the documents, it is for the Trial Court to decide the same in accordance with law.

10. The learned counsel appearing for the respondents would also contend that already the petition filed by the petitioner to mark the document was allowed, but the same has not been challenged. In this petition, the said argument is not relevant. It is for the parties to make submissions before the Trial Court in accordance with law.

11. With the above observations, the Civil Revision Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

03.07.2024

Index : Yes/No
Speaking order/non-speaking order
mjs



C.R.P. No.595 of 2021

P.DHANABAL, J.,

mjs

To

The Principal District Munsif Court, Mayiladuthurai.

CRP. No.595 of 2021

03.07.2024