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C.R.P.(PD).No.1079 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.1079 of 2024
and C.M.P.No.5614 of 2024

Karunanidhi

... Petitioner

VS

Masilamani

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to allow the above Civil Revision Petition by setting aside the Fair and Decretal order dated 23.10.2021 passed in I.A.No.211 of 2019 in O.S.No.41 of 2017 on the file of the District Munsif cum Judicial Magistrate Court, Vedaranyam.

For Petitioner : Mr.S.Senthil

ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court allowing the application filed by the respondent/plaintiff seeking to mark the Partition Deed dated 08.06.1998.

2. The respondent herein filed a suit for permanent injunction. In the



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plaint averment, it is stated by the respondent that the suit property has been in possession and enjoyment of the respondent under the Partition Deed dated 08.06.1998. Since the said document is unregistered document, the respondent herein filed an application seeking leave of the Court to mark the same. The said application was opposed by the petitioner on the ground that the document is unregistered and hence, in view of bar under Section 17 read with Section 49 of the Registration Act, 1908 the same cannot be admitted in evidence.

3. The suit filed by the respondent is only for permanent injunction. Therefore, the respondent has to establish his possession over the suit property. The unregistered Partition Deed dated 08.06.1998 is sought to be marked just to establish the nature and character of the possession of the respondent. The same is only a collateral purpose for the document. The respondent is not claiming any right or title under the document. The same can be marked only to establish the respondent's alleged possession over the suit property.

4. The Trial Court rightly came to the conclusion that the respondent is



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not claiming any title under the document and he is only claiming possession under the said document. In such circumstances, in view of the proviso to Section 49 of the Registration Act, 1908 an unregistered partition deed can be received in evidence for collateral purpose. The possession of the parties under the document dated 08.06.1998 is only a collateral purpose for the document. Therefore, the order passed by the Trial Court allowing the marking of said document is sustainable in law. It is open to the petitioner to advance his arguments at the time of final disposal of the suit that document in question cannot be pressed into service to claim any right or title and it can be referred to only for collateral purpose.

5. With this clarification, the Civil Revision Petition stands disposed of.

No costs. Consequently, the connected civil miscellaneous petition is closed.

22.03.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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S.SOUNTHAR, J.

dm

To

The District Munsif cum Judicial Magistrate Court,
Vedaranyam.

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