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C.R.P.(PD)No.3154 of 2016



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.(PD).No.3154 of 2016and
C.M.P.No.15987 of 2016

1.P.R.Devi

2.Shanthi

3.T.Manikandan

... Petitioners

Vs.

1.M.Vijayalakshmi

Nagaraj (Deceased)

J.Thangaraj (Deceased)

2.V.Pappa Rajendran

3.Mrs.Ranjini

4.Mrs.N.Devi

5.Master Pranav

6.Master Adithya

(Minor respondents 5 & 6 are rep.

By their Mother and Natural Guardian

Mrs.Devi)

...Respondents

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code, praying to set aside the fair and decretal order dated 05.07.2016 made in I.A.No.2 of 2016 in O.S.No.11077 of 2010 on the file of XVIII Additional District Judge, Chennai.



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For Petitioners : Ms.H.Priyanka
for Mr.S.M.Venkadeshnan

For Respondent 1 : Mr.G.Surya Narayanan
For respondent 2 : Died
For respondent 3 &4 : Unclaimed
For respondents 5 & 6 : Minor rep by R4

ORDER

This Civil Revision Petition is filed challenging the order passed by the Court below allowing the petition filed by the 1st respondent/plaintiff seeking permission to file and mark five documents which were not filed along with the plaint.

2. The 1st respondent herein filed a suit for specific performance and the suit is in the stage of P.W.1 chief-examination. The present application has been filed by the 1st respondent/plaintiff seeking to mark five documents which were not originally filed along with the plaint. The application was opposed by the petitioners on the ground that lease deeds produced by the 1st respondent as Document No.5 is unregistered and insufficiently stamped document.



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3. The Court below, after perusing the documents filed along with the petition, came to the conclusion that documents 1 to 4 do not require any registration and hence, they could be marked subject to proof and relevancy. As far as documents filed in S.No.5, four lease arrangements dated 04.12.2010, 03.11.2011, 09.11.2012 and 11.11.2013, the Court below allowed marking of lease arrangements for collateral purpose subject to proof and relevancy. It was also observed by the Court that for marking document for collateral purpose, the stamp duty is not required. The said observation of the Court below is not correct. The bar under Section 35 of Indian Stamp Act is total. If the document is insufficiently stamped one, it cannot be used for any purpose including collateral purpose. Therefore, the order passed by the Court below to the extent it says documents do not require stamp duty for using the same for collateral purpose is not correct. The petitioner may be permitted to mark lease arrangements produced by him provided he is ready to pay stamp duty together with penalty as required under Indian Stamp Act. Therefore, the Court below is directed to impound lease deeds filed by the 1st respondent and collect stamp duty together with penalty. In the event of 1st respondent paying



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stamp duty together with penalty, he is entitled to mark the same subject to proof and relevancy. If stamp duty is not paid as required, the 1st respondent is not entitled to mark the lease deeds.

4. With these clarifications, this Civil Revision Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

05.01.2024

Index : Yes / No
Internet : Yes / No
nr

To

The learned XVIII Additional District Judge, Chennai.



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S.SOUNTHAR , J.

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