



C.R.P.(NPD).No.2209 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.2209 of 2021  
and C.M.P.No.16738 of 2021

Mr.Chandrababu

... Petitioner

vs.

1.Janakiraman  
2.Sivanandan  
3.Mrs.Mariamammal  
4.Mrs.Sokkammal  
5.Ravi  
6.Shanthi  
7.The Tahsildar,  
Thiruvallur Taluk.  
8.The District Collector,  
District Collectorate,  
Thiruvallur.

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the judgment and decreetal order dated 28.07.2021 passed by the Additional District Munsif, Thiruvallur in I.A.No.1 of 2020 in O.S.No.272 of 2014.

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For Petitioner : Mr.A.S.Balaji

For Respondents :Mr.C.Sathish  
Government Advocate (C.S)  
for R7 and R8  
No Appearance for R1 to R6

### **ORDER**

This Civil Revision Petition is filed challenging the order passed by the Courts below allowing the application filed by the respondents to impound document and send it for Collector for collection of stamp duty together with penalty.

2. The respondents 1 and 2 filed a suit for declaration of title and for consequential injunction, mandatory injunction etc. The case of the respondents is that the suit property originally belonged to one Manicka Reddy, son of Rangappa Reddy. The grandfather of contesting respondent viz., Kesava Rddy, exchanged his lands with suit properties for the sake of convenience and enjoyment. The exchange of properties including the suit property was reduced into writing in a document dated 15.10.1961. It is the



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case of the contesting respondents that pursuant to exchange deed, their grandfather had been in possession and enjoyment of the suit property.

Further, on his demise his son Selvam, father of the contesting respondents got the property and he enjoyed the same. The father of the respondents also mortgaged the properties and exchanged control over the same.

3. It was further averred by the contesting respondents that the petitioner attempted to interfere with their possession, therefore, the above said suit was laid. Pending the suit, the contesting respondent filed an application in I.A.No.1 of 2020 to send the exchange deed dated 15.06.1961 for impounding and collection of stamp duty by Revenue Divisional Officer. The said application was allowed by the Court below. Aggrieved by the same, the petitioner is before this Court.

4. The learned counsel appearing for the petitioner submits that the document sought to be impounded is an unregistered and unstamped exchange deed and hence it cannot be admitted in evidence. It was further submitted that the respondents 1 and 2 based their claim over the suit



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property only on exchange deed dated 15.10.1961 and therefore, to prove their title, the said exchange deed cannot be admitted in evidence. In support of his contention, the learned counsel appearing for the petitioner relied on the following judgments:

(i) ***Thangamuthu and two others Vs. A.Jeyaraj***

reported in ***2020 (1) CTC 47***;

(ii) ***Dhananjezhiyan and another Vs. Kuppu and***

***others*** reported in ***2020 (5) CTC 812***.

5. By virtue of Section 35 of Indian Stamp Act, unstamped or sufficiently stamped documents cannot be admitted in evidence for any purposes including the collateral purposes. In other words, the bar under Section 35 of Stamp Act is total and insufficiently stamped documents cannot be admitted in evidence at all for any purpose. However, the bar under Section 49 r/w 17 of Registration Act is different. It is settled law, unregistered document can be looked into for collateral purposes of proving nature of possession. In this regard, it would be appropriate to refer to the decision of Apex Court in ***Bondar Singh v. Nihal Singh*** reported in ***2003 (2)***



**CTC 635**, the relevant observation reads as follows:

*“5 . The main question as we have already noted is the question of continuous possession of the plaintiffs over the suit lands. The sale deed dated 9.5.1931 by Fakir Chand, father of the defendants in favour of Tola Singh, the predecessor interest of the plaintiff, is an admitted document in the sense its execution is not in dispute. The only defence set up against said document is that it is unstamped and unregistered and therefore it cannot convey title to the land in favour of plaintiffs. Under the law a sale deed is required to be properly stamped and registered before it can convey title to the vendee. However, legal position is clear law that a document like the sale deed in the present case, even though not admissible in evidence, can be looked into for collateral purposes. In the present case the collateral purpose to be seen is the nature of possession of the plaintiffs over the suit land.”*

6. In view of the settled law that unregistered document can be looked into for collateral purposes of proving possession, merely because the exchange deed is unregistered document, there is no total prohibition from admitting the same in evidence. Of course, the respondents 1 and 2 cannot rely on exchange deed dated 15.10.1961 to prove their title over the suit



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property. However, they can use it for limited purpose of proving nature of

possession provided the stamp duty together with penalty is paid by them.

Now by impugned order, the document is sent to the Collector for the purpose of collection of stamp duty together with penalty.

7. I do not find any illegality or irregularity in the order sending the document for impounding and collection of stamp duty. However, it is clarified that even after payment of stamp duty with penalty, the respondents 1 and 2 can use it only for proving nature of possession and the same cannot be used for proving the title under the documents.

8. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

**02.01.2024**

Index : Yes / No  
Speaking order : Yes / No  
Neutral Citation : Yes / No  
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To

The Additional District Munsif,  
Thiruvallur.



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**S.SOUNTHAR, J.**

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