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C.R.P No.4201 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2024

CORAM

THE HONOURABLE MR. JUSTICE P.DHANABAL

C.R.P.No.4201 of 2022

and

C.M.P No.21998 of 2022

E.Venkatesan (died)

1.Gunasekaran

2.Vijayalakshmi

... Petitioners

..Vs..

Thenmozhi

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India against the order and decretal order dated 02.02.2021 passed in I.A.No.1 of 2019 in O.S No.83 of 2005 on the file of the District Munsif Court, Ambattur.

For Petitioners

: Mr.S.N.Ravikumar

For Respondent

: Mr.B.Deepak Narayanan



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ORDER

WEB COPY This Civil Revision Petition has been filed by the petitioner, as against the order passed in I.A.No.1 of 2019 in O.S No.83 of 2005 on the file of the District Munsif, Ambattur, dated 02.02.2021, wherein the respondent herein has filed a petition before the trial Court to impound the unregistered sale deed dated 15.11.1991 filed by the plaintiff by sending the same to the Collector for impounding and to pass such further orders.

2. According to the petitioners, the respondent herein is the plaintiff in the suit and he filed a suit for the relief of permanent injunction. She relied upon the unregistered sale deed dated 15.11.1991 and also she filed a petition to impound the said document for assessing the stamp duty penalty. The said petition was objected by the petitioners herein. The suit property belongs to their mother and their father executed a settlement in their favour and after the demise of their mother, these petitioners are in possession and enjoyment of the property. But the respondent/plaintiff claimed that the petitioners' mother executed an unregistered sale deed in favour of the respondent which is a forged document and it is to be compulsorily



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registered under Section 17 of the Registration Act. Therefore, merely referring the document to the Collector for assessing the stamp duty penalty, the defect of non registration cannot be cured. Therefore, no purpose will be served in permitting the respondent to pay the stamp duty penalty. Therefore, the trial Court ought not to have allowed the application. Hence the present Civil Revision Petition is filed to set aside the order passed by the trial Court.

3. According to the respondent, she filed a suit for the relief of permanent injunction and the mother of the petitioners executed an unregistered sale deed in favour of the respondent on 15.11.1991. Therefore, the said document can be relied upon for the collateral purpose under proviso 49 of Registration Act. Therefore, the respondent filed a petition before the trial Court to impound the document by sending the same to the Collector for assessing the stamp duty penalty. Therefore, the trial Court passed the order only to impound the document for the purpose of payment of stamp duty penalty alone and the trial Court itself, in the order observed that just because of a document impounded it is not that it is



proved. Mere impounding the document and refer the document to collect the stamp duty will not validate the document. Therefore, the trial Court only passed the order by sending the document to collect the stamp duty. Therefore, the order passed by the trial Court would no way affect the right of the petitioner and therefore, the order passed by the trial Court is in order and the present petition is liable to be dismissed.

4. This Court head both sides and perused the records.

5. This petition is filed by the petitioners as against the order passed by the trial Court in sending the unregistered document of sale deed to collect the stamp duty. According to the petitioners, since this document is an unregistered sale deed, it cannot be send for collection of stamp duty and it cannot be used for any purpose. Therefore, the order passed by the trial Court is liable to be set aside.

6. This Court perused the order passed by the trial Court. The Trial Court in its order, observed that the document which need to be impounded



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is to be compulsorily registered under Section 17 of Indian Registration Act and merely referring the document to assess the required stamp duty penalty cannot cure the defect of non-registration. The purpose of impounding a document is to pay the stamp duty penalty alone. Just because of a document impounded it is not that it is proved. Further, mere impounding a document and refer the document to collect the stamp duty will not validate that document. The validations and genuineness of the document can be decided at the time of trial alone. The order of impounding a document to assess the stamp duty penalty will not affect the right of other party and the impounding document will not give any fresh right to person. Therefore, the trial Court has passed the order only to collect the stamp duty and not for other purpose.

7. It is well settled law that the unregistered sale deed cannot be relied upon for sale purpose, however as per proviso of Section 49 of Registration Act, the unregistered documents can be received for collateral purpose. In this case, the trial Court has only impounded the document and sent for collection of penalty of stamp duty and not marked the document as exhibit



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by admitting the document as evidence. As rightly observed by the trial Court, the objection in respect of the genuineness and admissibility of the document can be raised by the parties at the time of marking of documents and merely because of sending the documents for collection of stamp duty will not amounts to validate the document. Therefore, the order passed only to mere collection of stamp duty would not affect the right of the parties. Since the document has not been marked as evidence, the petitioner herein can raise his objection at the time of marking the documents and it is for the trial Court to consider the objection, if any raised by the parties in accordance with law. Therefore, the order passed by the trial Court does not warrant interference. Hence, the present Civil Revision Petition has no merits and the same deserves to be dismissed.

8. In the result, this Civil Revision Petition is dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

10.04.2024

Index:Yes/No

Internet:Yes/No

Speaking/Non-speaking order
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To

- 1.The District Munsif,
Ambattur.
- 2.The Section Officer
V.R.Section, High Court of Madras.



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P.DHANABAL, J.
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2022
and
C.M.P No.21998 of 2022**

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