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C.R.P.No.4973 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 13.12.2024

CORAM :

**THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN**

C.R.P.No.4973 of 2024

Kumari

.. Petitioner

**Versus**

Shanmugam

.. Respondent

**Prayer:** Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order in I.A.No.2 of 2023 in O.S.No.235 of 2013 dated 08.04.2024 passed by the learned Principal District Munsif Judge, Tirupattur.

For Petitioner : Mr.S.Bruno Cruz

**ORDER**

The civil revision petition arises at the instance of the defendant.

2. O.S.No.235 of 2013 is a suit for permanent injunction seeking for restraining the defendant from interfering with the plaintiff's peaceful possession and enjoyment of the property. The plaintiff claimed he is the



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absolute owner of the property. As his possession was being interfered with by the defendant, he came forth with the suit.

3. The defendant filed a written statement pleading that the property originally belonged to one Thayammal, the wife of Veeraraghavapillai and the mother of the plaintiff. On her death, Veeraraghavapillai and the plaintiff succeeded to the property. For their urgent family expenses, they agreed to sell the suit property to the defendant. A registered agreement was also entered into on 20.11.1990, under which the plaintiff had paid a sum of Rs.31,600/-. It was agreed by the plaintiff that he would execute the sale deed after receiving a balance of Rs.400/-. The defendant further pleaded that the balance amount was paid to the plaintiff. She had also taken delivery of possession of the property. She pleads that she has been in possession and enjoyment of the same and had been waiting for the plaintiff and his father to execute the sale deed. Instead the plaintiff, without a cause of action, has presented the suit.

4. During the course of trial, PW1 entered the witness box and filed a proof affidavit denying the sale agreement. He took the same plea during



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the course of cross examination. The defendant has also completed her evidence. Thereafter, she filed an application in IA.No.2 of 2023 to summon the Sub Registrar, Jolarpet, in whose office the document was registered, in order to substantiate the plea of execution of the document. After receipt of a counter from the plaintiff, the learned Principal District Munsif dismissed the said petition. Hence, this revision.

5. I have heard Mr.S.Bruno Cruz in support of the civil revision petition.

6. Mr.S.Bruno Cruz argues that the Sub Registrar has to be summoned in order to demonstrate the genuineness of the document. Hence, he seeks for revising of the order.

7. The Sub Registrar is not a party to the document. He receives and registers the document pursuant to the statutory duty imposed on him under the Registration Act. Under section 60(2) of the Registration Act of 1908, the Registrar has to certify that the document has been signed, sealed and dated by the registering officer. Such a certification is admissible in



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evidence for the purpose of proving that the document has been registered in the manner provided under the Act.

8. The Sub Registrar, as pointed above, is not a party to the document and hence, he cannot depose about the truth, genuineness or about the contents of the document itself. If the defendant wants to prove the documents, she is entitled to summon the witnesses, who have attested the document.

9. Furthermore, the Sub Registrar, who would have been employed in the year 1990 when the document is said to have been registered, would obviously not be available in the office of the Sub Registrar of Jolarpet today. Summoning the present incumbent would not serve any purpose.

10. Leaving it open to the petitioner to summon the witnesses to the agreement to substantiate her plea, the civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

13.12.2024



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Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no

To

The Principal District Munsif Judge, Tirupattur..



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**V.LAKSHMINARAYANAN, J.**

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