



CRP(MD).No.1633 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 24.07.2024

CORAM

**THE HONOURABLE MR JUSTICE D.BHARATHA
CHAKRAVARTHY**

**C.R.P(MD)No.1633 of 2024
and C.M.P(MD).No.9584 of 2024**

K.N.Perumal (died)

1.P.Kandasamy

2.Alagammal

3.Jothilakshmi

... Petitioners

-Vs-

1.V.Kavurajan

2.K.Ganesan

3.Alagammal

4.N.Krishnan

5.M.Muniasamy

6.M.Muthukrishnan

7.Mariammal

Rajamamal(died)

8.G.Marisamy

9.Petchaiammal

10.Veeramuthammal

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow the civil revision petition by setting aside the fair and decretal order passed in I.A.No.5 of 2023 in O.S.No.59 of



CRP(MD).No.1633 of 2024

WEB COPY

2016 on the file of the Principal District and Sessions Court, Virudhunagar at Srivilliputhur.

For Petitioners : Mr.K.K.Udayakumar

ORDER

The civil revision petition is directed against the order dated 04.06.2024 passed in I.A.No.5 of 2023 in O.S.No.59 of 2016.

2. In the said Interlocutory Application, a prayer is made to eschew Ex.A2, which is marked on behalf of the plaintiffs. The contention of the petitioners/ defendants is that Ex.A2 is in the nature of a sale deed and the same being unstamped and unregistered, ought not to have been marked as a document. The trial Court considered the said contention and held that it is only a receipt evidencing the consideration of sale and therefore, cannot be termed as a sale deed and rejected the petition. Aggrieved by the same, the present civil revision petition is filed.

3. Mr.K.K.Udayakumar, the learned counsel appearing on behalf of the petitioners would submit that on a perusal of Ex.A2, it is clearly



WEB COPY

mentioned that after the receipt of the amount and when the suit is over, the plaintiffs can sell the property by using the power of attorney without any further reference to the original owner of the property. Therefore, if both the documents are read in tandem, it can be seen that the right of the immovable property is already parted away and therefore, the trial Court should have held that Ex.A2 is a sale deed and eschewed the document.

4. I have considered the said arguments made by the learned counsel for the petitioners and perused the said Ex.A2 as well as the other records filed along with the civil revision petition.

5. On perusal of the Ex.A2, it can be seen that it evidences the receipts of the amount and also further states that after finishing of the case, the plaintiffs will entrust the possession of the property and thereafter, using the power of attorney, the person can sell the property. Therefore, if the property is sold, the sale is only as a power agent. It is can be contended that the power of attorney is coupled with condition and consideration is passed on pursuant to the power and therefore, whether that power has to be adequately stamped or not is another question. But,



CRP(MD).No.1633 of 2024

however, Ex.A2 cannot be considered as the sale deed by itself and therefore, the contention of the learned counsel for the petitioners with reference to the present Interlocutory Application with the prayer as to the eschewing of Ex.A2 cannot be countenanced. As such, finding no merits, the Civil Revision Petition is disposed of, however, with liberty to the petitioners to object with reference to the power of attorney concerned. No costs. Consequently, connected Miscellaneous Petition is closed.

24.07.2024

Index : Yes / No
Internet : Yes/ No
Rmk

To
1.The Principal District and Sessions Judge,
Virudhunagar at Srivilliputhur.



WEB COPY



CRP(MD).No.1633 of 2024



WEB COPY



CRP(MD).No.1633 of 2024

D.BHARATHA CHAKRAVARTHY, J.

Rmk

C.R.P(MD)No.1633 of 2024

24.07.2024