



C.RP(MD)No.1709 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 31.07.2024

CORAM

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

C.R.P(MD)No.1709 of 2024

and

C.M.P(MD).No.9949 of 2024

Thirunavukkarasu

... Petitioner

Vs.

1.Rasappan

2.Rajkumar

3.Soundara Pandiyan

...Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records and set aside the fair and decreetal order passed in I.A.No.467 of 2023 in O.S.No.362 of 2019 passed by the learned District Munsif cum Judicial Magistrate, Thiruvudaimarudur, Thanjavur District.

For Petitioner

:Mr.B.Jameelarasu



C.RP(MD)No.1709 of 2024

WEB COPY

ORDER

This civil revision petition is directed against the order dated 04.06.2024 made in I.A.No.467 of 2023 in O.S.No.362 of 2019.

2. Even though the suit is of the year 2019, in the year 2023, this present Interlocutory Application is filed to receive and mark an unregistered sale deed, which is said to have been executed by the defendants in favour of the plaintiff. The trial Court, after considering the case of the parties, rejected the said Interlocutory Application. Aggrieved by which, the present civil revision petition is filed.

3. Mr.B.Jameelarasu, the learned counsel appearing on behalf of the petitioner would submit that it is settled proposition of law that even an unregistered document can be looked into for collateral purposes. The plaintiff is entitled to rely upon the said sale agreement only to prove his possession.



C.RP(MD)No.1709 of 2024

4. I have considered the said submission made by the learned counsel for the petitioner.

5. A perusal of the plaint, it can be seen that the pleading of the plaintiff is not that he has been put into possession pursuant to the said sale agreement that it is his specific contention that the defendants had mortgaged the suit properties on 21.08.1998 and executed a mortgage deed and therefore, he is in possession pursuant to the said mortgage. The said averments are specifically made in paragraph one of the plaint. The said mortgage deed is also produced as plaint document No.1. Therefore, when the plaintiff wants to prove the possession, then it is his own case that he is put into possession pursuant to the mortgage deed and therefore, the contention that he is trying to prove the possession only through the unregistered sale agreement is factually incorrect and therefore, I reject the case of the petitioner. Secondly, the trial Court has also relied upon the judgment of the Honourable Supreme Court in ***Bakram Singh Vs Kelodevi (2022 INSC 1011)***, which is on an identical facts and circumstance of the case and the Supreme Court, after considering the fact that the document can be considered for collateral purpose, however, held in an identical facts, where instead of filing the suit for specific performance, if a suit for



C.RP(MD)No.1709 of 2024

injunction alone be filed, in such a circumstances that would amount to indirectly obtaining specific performance itself. I do not see any error in the trial Court following the said judgment also. Thirdly, I also see that when the suit is filed in the year 2019, only in the 2023 the application is filed. For all the above reasons, the Civil Revision Petition fails and is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

31.07.2024

NCC:Yes/No
Index:Yes/No
Rmk

To
The District Munsif cum Judicial Magistrate, Thiruvudaimarudur,
Thanjavur District.



WEB COPY



C.RP(MD)No.1709 of 2024

D.BHARATHA CHAKRAVARTHY, J.

Rmk

C.R.P(MD)No.1709 of 2024

31.07.2024