



WEB COPY

C.R.P(MD)No.2399 of 2



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 03.07.2024

CORAM

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

C.R.P(MD)No.2399 of 2022

and

C.M.P(MD)No.11593 of 2022

Sri Rengappa

... Petitioner/Petitioner/Plaintiff

Vs.

Moothy

...Respondent/Respondent/
Defendant

Civil Revision Petition is filed under article 227 of the Constitution of India, to set aside the fair and decreetal order dated 30.08.2022 made in I.A.No.52 of 2022 in O.S.No.62 of 2019 on the file of the II Additional District and Sessions Judge, Thanjavur.

For Petitioner

:Mr.PT.S.Narendravasan

For Respondent

:Mr.B.Jameel Arasu

ORDER

This Civil Revision Petition arises out of the fair and decreetal order of the learned Additional District and Sessions Judge, Thanjavur made in I.A.No.52 of 2022 in O.S.No.62 of 2019.



2. On a perusal of the records, it could be seen that the suit is filed for recovery of money. When P.W.1 was in the box, the present I.A is filed. The purpose, which is mentioned in the affidavit filed in support of the application is to mark the mortgage deed as exhibit. The respondent filed counter to the application stating that the deed is compulsory registrable and therefore, the said document being unregistered mortgage deed, cannot be marked.

3. The learned counsel for the petitioner would submit that the question as to whether the document is compulsorily registered or not, can be decided later and the application is only for recalling the witness. At this stage, the trial Court ought to have decided the said question.

4. The learned counsel appearing on behalf of the respondent would submit that in this case, P.W.1 was already in box. Except for marking of the document only, there is no other purpose for which the prayer is made.

5. I have considered the rival submission made on either side and perused the material records of the case.



6.Firstly, the petition is filed under Order 18 Rule 17 C.P.C, the same can be filed if only the evidence of the particular witness or the plaintiff side is closed. In this case P.W.1 was already in the box. The only question is to be decided before the trial Court was whether the document which is produced by the plaintiff can be marked or not. The trial Court has considered the nature of mortgage deed and since the same is compulsory registrable as per the provision of the Indian Registration Act, the same was not permitted to be marked in the absence of registration and therefore, the petition is rejected.

7.In view thereof, finding no merits, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

03.07.2024

NCC:Yes/No
Index:Yes/No
Internet:Yes/No
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To

1.The II Additional District and
Sessions Judge,
Thanjavur.

2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

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D.BHARATHA CHAKRAVARTHY, J.

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