



C.R.P(MD)No.2611 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 02.12.2024
DELIVERED ON : 18.12.2024

CORAM:

THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P(MD)No.2611 of 2022
and
C.M.P(MD)No.12740 of 2022

Muthuvel

... Petitioner

Vs.

1.Sumathi

2.Priyanka

3.Goutham

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order, dated 14.11.2022 in I.A.No.1 of 2022 in O.S.No.166 of 2021 on the file of the Additional Sub Judge, Palani and allow the above Civil Revision Petition.

For Petitioner : Mr.N.Mohan

For Respondents : Mr.K.Vijayanand



WEB COPY



C.R.P(MD)No.2611 of 2022

ORDER

This Civil Revision Petition is preferred against the order passed in I.A.No.1 of 2022 in O.S.No.166 of 2021, dated 14.11.2022.

2. The revision petitioner as plaintiff filed the above suit in O.S.No. 166 of 2021 on the file of the Additional Sub Court, Palani for specific performance. Pending suit, the plaintiff took out an application in I.A.No.1 of 2022 for marking additional documents on the side of the plaintiff. The same was resisted by the respondents / defendants. The Trial Court in its order, dated 14.11.2022 dismissed the said application. Assailing the same, the present revision is preferred.

3. According to the revision petitioner, the suit is filed for specific performance and other reliefs. The petitioner and the respondents 1 and 2 executed a relinquishment deed, dated 13.04.2018 which is an un-registered document filed along with the plaint as document No.1. Since it is an un-registered document, the respondents objected for marking of the said document. It is the contention of the petitioner that the first respondent is



C.R.P(MD)No.2611 of 2022

the brother's wife of the petitioner and the respondents 2 and 3 are her children. Since the suit property was not partitioned and third respondent was minor at the time of execution of the said document, the same was not registered. It is further submitted that though the document is styled as relinquishment deed due to ignorance, the recitals would reveal that it is only a sale agreement. Therefore, the said document can be used for collateral purpose and the plaintiff is relying on the said document to prove the payment of money by the plaintiff to the defendants. Therefore, if the same is not permitted to be marked, the petitioner / plaintiff will be put to irreparable loss. Hence, prayed for setting aside the impugned order passed by the Trial Court.

4. On the other hand, the learned Counsel appearing for the respondents would submit that the alleged document, dated 13.04.2018 is a relinquishment deed which requires compulsory registration and therefore, the same cannot be marked as evidence. The Trial Court has rightly rejected the petition which calls for no interference.



C.R.P(MD)No.2611 of 2022

5. Heard the learned Counsel for the petitioner and the respondents and perused the materials available on record.

6. Admittedly, it is a suit for specific performance. The plaintiff had attempted to mark the un-registered deed, dated 13.04.2018 which was objected by the defendants. The Trial Court while dismissing the application has held that since the above document is a relinquishment deed, it has to be registered and duly stamped and therefore, the same cannot be permitted to be marked as additional evidence.

7. On perusal of the said document, dated 13.04.2018, though it is named and styled as relinquishment deed, it is seen from the recitals of the document that as if the respondents 1 to 3 have received Rupees Two Lakhs from the total amount of Rupees Four Lakhs and that the respondents agreed to execute a sale deed after receipt of the balance sale price. Therefore, it is for the Trial Court to consider the validity of the document and whether it is a relinquishment deed or a sale agreement.



C.R.P(MD)No.2611 of 2022

WEB COPY

8. Under such circumstances, the contention of the learned Counsel for the respondents that since the said document was not registered, the same cannot be accepted. In view of the same, the order passed by the Trial Court is set aside. Hence, the Civil Revision Petition stands allowed. There shall be no order as to costs. The Trial Court is directed to permit the petitioner to mark the said document and consider the same on its own merits. Consequently, connected Miscellaneous Petition stands closed.

18.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

The Additional Sub Judge,
Palani.



WEB COPY



C.R.P(MD)No.2611 of 2022

K.GOVINDARAJAN THILAKAVADI, J.

BTR

Order made in
C.R.P(MD)No.2611 of 2022

18.12.2024