



CRP.No.1736 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on : 22.08.2025

Order pronounced on : 29.08.2025

CORAM

THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.No.1736 of 2024

S.Balamurugan

..Petitioner

Vs.

1.R.Punithavathi
2.Varadarajan
3.S.Venkatesan
4.S.Siva Shanmugam
5.J.Madhurabashini
6.S.Padmanaban
7.Vidya
8.Ramkumar
9.Sujatha
10.Lakshmi

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order of return date NIL in I.A.SR and to direct the learned District Judge, Mayiladuthurai to permit the petitioner to mark the mutual agreement dated 18.01.2015 held between the petitioner and the respondents 1 to 6 as one of the Exhibits on behalf of the petitioner.

For Petitioner : Mr.E.Prabhu
for Mr.V.Sathish



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For Respondents : Mr.C.Uma Shankar for R1
Mr.A.Muthukumar for RR3 & 4
Mrs.P.Srividhya for R5
No appearance for RR2, 6, 7 to 10

ORDER

The revision petitioner in a suit for partition and separate position, aggrieved by the order of the trial Court, rejecting the revision petitioner's request to mark additional documents, is before this Court by way of this revision.

2.I have heard Mr.E.Prabhu for Mr.V.Sathish, learned counsel for the petitioner, Mr.C.Uma Shankar, learned counsel for the 1st respondent, Mr.A.Muthukumar, learned counsel for respondents 3 and 4 and Mrs.P.Srividhya, learned counsel for 5th respondent.

3.When PW-1 was in the witness box for cross-examination, PW-1 was confronted with a document dated 18.01.2015. According to the learned counsel for the petitioner, Mr.E.Prabhu, the said document is not a record of past transaction and also not a document creating any right in *present* and therefore, there was absolutely no impediment in admitting the said document in evidence. He would take me through the document itself, to fortify his



contentions in this regard.

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4.The learned counsel for the petitioner would also rely on the judgment of the Honourable Supreme Court in *Kale and Others Vs. Deputy Director of Consolidation and Others*, reported in *AIR 1976 SC 807*, where the Honorable Supreme Court held that a family arrangement can be even made orally and where it is reduced to writing, the question whether it is requiring registration would be a question of fact in each case, depending upon consideration of the nature and phraseology of the writing and the circumstances in which and the purpose with which it was written.

5.The learned counsel for the 1st respondent, Mr.C.Umashankar, would state that the document is unstamped and unregistered and the document not being a record of past transaction, it is clearly inadmissible in evidence and cannot be looked into for any purpose. He would rely on the decision of the Honourable Division Bench of this Court in *A.C. Lakshmiopathy and Another vs A.M.Chakrapani, Reddiar and 5 Others* reported in *2001 (1) CTC 112*, where the Division Bench of this Court held that an unregistered document relating to immovable property can only be received to establish collateral purpose and not



to establish title and what is collateral purpose would have to be decided according to the facts of each case. The Honorable Division also held that if the document is required to be stamped and not stamped, then it cannot be looked into even for collateral purposes.

6.Mr.A.Muthukumar, learned Counsel for the respondents 3 and 4 and Mrs.P.Srividhya, learned Counsel for the 5th respondent would contend that even though the document is not a record of past transaction and also not a document creating any right in *present*, considering the stand taken by the revision petitioner in the written statement, the document which is now sought to be marked is totally irrelevant and in this connection, the learned counsel would take me through the written statement filed by the revision petitioner.

7.The learned counsel for the respondents 3, 4 and 5 would further state that if it was the case of the revision petitioner that the partition suit will have to be decided in terms of the said document, which is sought to be marked, then it may be a ground for permitting the revision petitioner to exhibit the document before the Court. However, when the revision petitioner has sought for dismissal of the suit for partition and has also referred to the document as



one for partition, not only in the written statement but also in the memo filed before the trial Court, the suit also being prayed to be dismissed, it is not open to the petitioner to place reliance on the said document.

8.The learned counsels would also rely on my decision in *Muthu v. Sampath and others* reported in 2024 (6) CTC 399, where, I have held that an un-stamped partition deed cannot be used even for collateral purposes. The learned counsel for the respondents would therefore pray for dismissal of the revision.

9.I have carefully considered the submissions advanced on either side. I have also gone through the documents, more specifically the document which is sought to be exhibited in evidence by the revision petitioner. I have also gone through the decisions on which reliance is placed on by the respective counsel.

10.As can be seen from the document dated 18.01.2015, it is certainly not confirming an earlier partition. If the document is a mere statement recording an earlier partition, then it does not require to be registered and the document can be looked into by the Court. However, curiously, neither does the document



create any right in *present*. It appears to be only an agreement between the parties where under they arrive upon a consensus to divide the properties in a particular manner.

11.Subsequently, the suit has been filed for partition and separate possession. In the written statement filed by the revision petitioner, he contends that the “*parties have already accepted a settlement and reduced the same to writing on 18.01.2015 and that the plaintiff has accepted and consented for the said partition and made her signature in the same*” and ultimately, the 6th defendant has only sought for dismissal of the suit.

12.It is not the case of the 6th defendant that the properties are available for partition and the parties have already arrived at a settlement with regard to a mode of division and therefore, the decree should be passed in terms of the agreed mode of division. However, the plaintiff only seeks for dismissal of the suit for partition, relying on the said unregistered agreement.

13.It is also an admitted position that even the said agreement to agree



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for partition in a particular fashion is unstamped. No doubt, the said document may not require registration, but however, in the light of the defence set up by the 6th defendant, I do not see how this document is in any way relevant to meet the suit claim for partition. Therefore, I do not find any infirmity in the order of the trial Court, dismissing the application, refusing to mark the said unregistered document on the side of the 6th defendant.

14.In fine, the Civil Revision Petition is dismissed. There shall be no order as to costs.

29.08.2025

Speaking/Non-speaking order

Index : Yes/No

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To

The District Judge, Mayiladuthurai.



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P.B.BALAJI.J,

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Pre-delivery order made in
CRP.No.1736 of 2024

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