



C.R.P.(PD) Nos.5038 & 5240 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 21.01.2025

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD) Nos.5038 & 5240 of 2024

&

CMP No.28249 of 2024

In both CRPs

1. Pattammal
2. P.Muthuraju

.. Petitioners

Versus

1. Hariharan
2. Karpagam
3. Kalyani
4. Sulochana

..Respondents

Prayer in CRP No.5038 of 2024: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to modify the order dated 12.06.2023 made in I.A.No.4 of 2023 in O.S.No.1619 of 2011 on the file of II Additional District Munsif Court, Coimbatore.

Prayer in CRP No.5240 of 2024: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 12.06.2024 made in I.A.No.5 of 2023 in O.S.No.1619 of 2011 on the file of II Additional District Court, Coimbatore.

For Petitioners : Mr. S.Mukunth, Senior Counsel
for Sarvabhuman Associates



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For Respondents : Mr.J.Maheswaran

ORDER

The civil revision petition challenges the order passed by the learned II Additional District Munsif at Coimbatore in I.A.No.4 of 2023 and I.A.No.5 of 2023 in O.S.No.1619 of 2011.

2. The suit in O.S.No.1619 of 2011 has been filed seeking for the following reliefs:

(a) Declaring that the title of the first plaintiff in respect of the suit property as per the sale deed dated 30.03.1995 registered as document No.815/1995 on the file of the Ganapathy Sub-Registrar Office is absolute.

(b) Declaring the release deed dated 26.05.2008 executed by the defendants 2 to 4 in favour of the first defendant is null and void and not binding on the first plaintiff.



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3. The defendants were served with the summons. The first defendant has filed the written statement. Issues were framed. The parties were pushed to trial. The evidence on the plaintiff's side has been completed.

4. During the course of the first plaintiffs' evidence, she produced a registration copy of the sale deed executed by one Arunachalam, father of the defendants. The same was marked as Ex.A2. Apart from the first plaintiff, three other witnesses have already been examined. At that stage, it was noticed by the first plaintiff that she has not produced the original of the sale deed executed by Arunachalam in her favour. Hence, she filed an application under Order VII Rule 14(3) of the Code of Civil Procedure seeking leave of the Court to produce the original of the sale deed and another application under Order XVIII Rule 17 of the Code of Civil Procedure seeking to recall PW1 for marking the said document.



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5. Notice was issued to the contesting defendant. The defendant also filed a detailed counter.

6. He pleaded that though several opportunities have been granted to the first plaintiff to produce the original, the plaintiff had failed to do so. Hence, pointing out the delay that the proceedings are suffering, he sought for dismissal of the said petition.

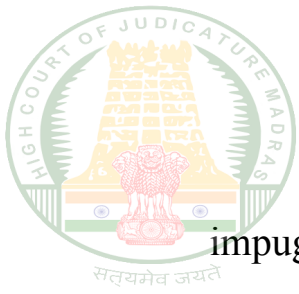
7. Learned trial Judge considered the affidavits and counter and allowed I.A.No.4 of 2023. Curiously enough, the learned trial Judge directed that the original should be received by the Court, but should be returned to the first plaintiff after comparing it with the registration copy filed as Ex.A2. Insofar as the recall petition is concerned, the learned trial Judge held that as the original is being ordered to be received, there is no necessity to examine the witness. Consequently, she dismissed the said petition in I.A.No.5 of 2023. Challenging the same, the present civil revision petitions.



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8. I have been presented with the case where the plaintiff's whose application had been allowed, want to set aside the said order. If at all anybody would have been aggrieved by the order passed by the learned District Munsif, it should have been the defendants. The Court below had directed receipt of the document and return of the same to the party filing it without allowing an application under Order XVIII Rule 17 of the Code of Civil Procedure. In addition, it had also directed marking of the document without any evidence. The plaintiffs have fortunately taken up the job of the defendants and have filed this revision.

9. Marking of a document by showing the same to the Registry is unknown to the Code of Civil Procedure. A document, if it has to be received in evidence, it has to be supported by a proof affidavit and the deponent in the proof affidavit has to enter into the witness box and depose on the document. Thereafter, the document would be received by the Court and exhibited by the learned Presiding Officer. The procedure which has been evolved by the learned District Munsif in the



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impugned order is alien to the Code of Civil Procedure and, therefore, it deserves to be set aside and accordingly, it is set aside.

10. In the light of the above discussion, I am passing the following order:

(i) The orders passed in I.A.Nos.4 and 5 of 2023 in O.S.No.1619 of 2011 dated 12.06.2024 are set aside and leave is granted to the petitioners to produce the original of the sale deed.

(ii) The plea of the first plaintiff that she should be recalled to mark the sale deed is also permitted.

(iii) The document should be filed along with the additional proof affidavit and the contesting defendant will be entitled to cross-examine the first plaintiff on the said proof affidavit.

11. The Civil Revision Petitions stand allowed on the above directions. Consequently, connected miscellaneous petition is closed.

No costs.

21.01.2025

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
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To

The II Additional District Munsif,

Coimbatore.



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V.LAKSHMINARAYANAN, J.

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