

C.R.P.(PD)(MD).No.206 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 25.02.2025

DELIVERED ON: 26 .03.2025

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

**C.R.P.(PD)(MD).No.206 of 2024
and CMP(MD).No.869 of 2024**

1.M.Ahamed Jesimabanu

2.Mohamed Kalil

....Petitioners/Petitioners
/Defendant Nos.1 & 3

Vs

1.A.Mohamed Maideen

...Respondent/Respondent No.1/Plaintiff

2.Abdul Rahman

3.Sub Registrar
Sub Registrar Office, Kamuthi

...Respondents/Respondent No.2 & 3
/Defendants Nos.2 & 4

PRAYE: Civil Revision Case is filed under Article 227 of Constitution of India, to call for records relating to the fair and decretal order dated 08.11.2023 made in I.A.No.3 of 2023 in O.S.No.20 of 2018 on the file of the Subordinate Court, Mudukulathur and set aside the same by allowing this civil revision petition.

1/8



WEB COPY



C.R.P.(PD)(MD).No.206 of 2024

For Petitioners : Mr.G.Aravinthan
For Mr.Y.Prakash
For Respondents : Mr.M.Ramachandran for R1
: Mr.S.P.Maharajan
Special Government Pleader for R3
: No appearance for R2

ORDER

The defendants 1 and 3 in O.S.No.20 of 2018 on the file of the Subordinate Court, Mudukulathur has filed the present civil revision petition challenging the dismissal of their application for reception of an unregistered sale deed as a document in evidence.

2.The first respondent has filed the above said suit for the relief of declaration of title and permanent injunction. According to the plaintiff, the suit schedule properties belonged to one Mohideen Bava and he had executed a sale deed in favour of the plaintiff on 23.05.2013 for a valuable consideration under a registered document in Document No.726 of 2013.

3.According to the plaintiff, the defendants do not have any right over the property. The third defendant has filed a written statement contending that the second defendant has executed an unregistered sale deed in favour of the third defendant on 21.12.2012 after receipt of full sale consideration. Based upon the said sale deed, the third defendant has



C.R.P.(PD)(MD).No.206 of 2024

also mutated the revenue records in his name. Thereafter, the third defendant has executed a registered settlement deed in favour of his wife namely the first defendant on 21.11.2014. According to the defendant, the vendor of the plaintiff do not have any right or title to execute the sale in favour of the plaintiff on 23.05.2013.

4. Pending suit, the defendants 1 and 3 have filed I.A.No.3 of 2023 under Section 151 of C.P.C seeking the permission of the Court to mark the unregistered sale deed dated 21.12.2012 on the side of the third defendant. According to the third defendant, the unregistered sale deed was executed by the second defendant in favour of the third defendant with an assurance that he would execute a sale deed on a later point of time. With the consent of the third defendant, patta was also mutated in favour of the third defendant. The third defendant was marking the said unregistered sale deed for collateral purposes.

5. The plaintiff has filed a counter strongly opposing the said application contending that the stamp papers, though stand in the name of the third defendant, it was purchased by a private company in Chennai. Therefore, the said unregistered sale deed is a forged document. It was further contended that the unregistered sale deed cannot be received even



C.R.P.(PD)(MD).No.206 of 2024

for collateral purposes and hence, prayed for dismissal of the said application.

6.The trial Court after considering the judgments filed on either side, arrived at a finding that it is an unregistered, unstamped sale deed and the third defendant claiming title under the said document and therefore, the same cannot be received in evidence. Challenging the same, the present civil revision petition has been filed.

7.According to the learned counsel for the revision petitioners, thought is an unregistered and an unstamped document, the same can be marked and it can be looked into for collateral purposes. This document can be used to prove that the third defendant is in possession of the suit schedule property. There is no prohibition under any one of the statutory provisions to mark the unregistered, unstamped document for collateral purposes to prove the possession.

8.The learned counsel for the petitioners has relied upon the decision of this Court in ***CRP.No.3350 of 2024 dated 21.08.2024 (Suganshwaran Vs.Paramashivam Nadar and another)*** wherein this Court has issued a direction to the trial Court to impound the document



C.R.P.(PD)(MD).No.206 of 2024

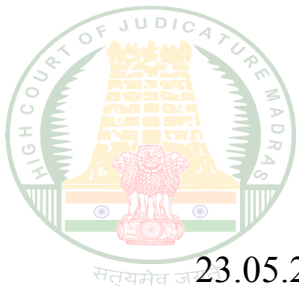
WEB COPY

and collected the deficit stamp duty and penalty and thereafter, look into the document for collateral purposes.

9.Per contra, the learned counsel for the respondents herein had relied upon a decision of this Court in **2024 (6) CTC 399 (Muthu Vs. Sampath and others)** had contended that mere payment of deficit stamp duty would not cure the defect of non-registration and therefore, the said document cannot be relied upon even for collatoral purposes. He had further contended that such a document cannot even be admitted in evidence. The learned counsel also also relied upon a judgment of the Hon'ble Supreme Court reported in **2023 Live Law (SC) 304 (R.Hemalatha Vs. Kashthuri)** to contend that such an unregistered document cannot be relied upon even for collateral purposes.

10.Heard both sides and perused the material records.

11.A perusal of the plaint prayer reveals that the suit has been filed for the relief of declaration of title and permanent injunction. The plaintiff had claimed title based upon a registered sale deed dated



C.R.P.(PD)(MD).No.206 of 2024

WEB COPY

23.05.2013. The third defendant claims that the second defendant has executed an unregistered sale deed in his favour on 21.12.2012. Based upon the said unregistered sale deed, he had executed a registered settlement deed in favour of his wife (D3) on 21.11.2014. Therefore, it is clear that the third defendant relies upon the unregistered sale deed dated 21.12.2012 for the purpose of establishing his title over the suit schedule property. When an unregistered sale deed is being relied upon for the purpose of establishing title, it cannot be considered to be for collateral purposes.

12.It is settled possession of law that only for collateral purpose which do not require registration, an unregistered document can be relied upon that too after payment of deficit stamp duty penalty. In the present case, admittedly the unregistered sale deed dated 21.12.2012 is being relied upon for claiming title to the suit schedule properties in a suit for declaration of title and permanent injunction. In such circumstances, the trial Court has rightly rejected the application for reception of the said document for collateral purposes.



C.R.P.(PD)(MD).No.206 of 2024

WEB COPY

13. In view of the above said facts, there are no merits in this revision petition. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

26 .03.2025

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
msa

To

1. The Subordinate Judge,
Mudukulathur
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P.(PD)(MD).No.206 of 2024

R.VIJAYAKUMAR, J

msa

Pre-delivery order made in
C.R.P.(PD)(MD).No.206 of 2024
and CMP(MD).No.869 of 2024

26.03.2025