



C.R..P.(NPD)(MD).No.404 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.404 of 2025

and

C.M.P(MD) No.2308 of 2025

Ravichandran

... Petitioner/Petitioner/
3rd Defendant

Vs.

Maria Anthoniyammal

... Respondent/Respondent
Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and Ex-order dated 29.08.2024 made in I.A.No.226 of 2023 in O.S.No.169 of 2009 on the file of the District Munsif Court, Kovilpatti and to allow the same.

For Petitioner : Mr.K.Hemakarhikeyan

For Respondent : No appearance



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ORDER

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Third defendant in O.S.No.169 of 2009, on the file of the District Munsif Court, Kovilpatti, has filed the present Civil Revision Petition challenging the order passed by the trial Court, wherein, the trial Court has refused to impound an unregistered sale deed for payment of stamp duty penalty for the purpose of marking the same.

2. The respondent herein as plaintiff has filed the above said suit for the relief of declaration of title and recovery of possession. In paragraph No.3 of the written statement, the first defendant has referred to an unregistered sale deed said to have been executed by the plaintiff in favour of the first defendant's husband, who is the third defendant. Date of the document is 26.11.1996 and the sale consideration is Rs.36,000/-. Based upon the unregistered sale deed, the defendant was defending the suit. When the suit was posted for evidence on the side of the defendants, the third defendant has filed I.A.No.226 of 2023 to impound the sale deed dated 26.11.1996, for the purpose of payment of stamp duty penalty, so that the documents could be marked as evidence. This application was resisted by the plaintiff on the



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ground that mere payment of the deficient stamp duty will not cure the defect in title. It was further contended that an unregistered sale deed cannot be looked into as a source of title.

3. The trial Court after considering the submissions made on either side, has dismissed the application primarily relying upon Section 23 of the Registration Act, wherein it is stated that the registration can be effected within a period of four months from the date of execution and within a further period of four months with penal charge. Therefore, the registration of the document could be effected only within a period of eight months from the date of execution of the documents. In such circumstances, the present application, having been filed after several years, is not maintainable. Challenging the same, the present Civil Revision Petition has been filed.

4. According to the learned counsel appearing for the petitioner, he has relied upon Section 35 of the Stamp Act, and not Section 23 of the Registration Act. Only if the document is sought to be registered, the time limit prescribed under Section 23 of the Registration Act, has to be followed. However, even without registering the document, an unregistered document



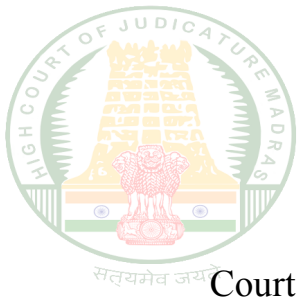
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can be looked into for the collateral purposes, in case, if the stamp duty and penalty are paid.

5. Though the respondent/plaintiff in the revision petition has been served and the name has also been printed in the cause list, she has not chosen to appear either in person or through her counsel.

6. A perusal of the order passed by the trial Court reveals that the trial Court was under the wrong impression that the third defendant is attempting to register the document now. Only if the registration is sought for, Section 23 of the Registration Act, would be applicable. As per the proviso to Section 49 of the Registration Act, even an unregistered document affecting immovable property may be received in evidence for any collateral transaction not required to be effected by a registered document. The first proviso to Section 35 of the Indian Stamp Act, provides for admission of such an un-stamped documents in evidence provided that the stamp duty is paid along with penalty. Therefore, in such circumstances, there is no bar for impounding the document for payment of stamp duty and penalty. The trial



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Court was not right in following Section 23 of the Registration Act, which deals with registration of the document alone.

7. In view of the above said deliberations, the order impugned in the revision petition is set aside and the trial Court is directed to impound the document and refer the same to the Sub Collector for assessing of Stamp duty penalty. On such payment, the document shall be received in evidence by the trial Court subject to the proof and relevancy.

8. With the above said observations, this Civil Revision Petition is allowed. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

21.03.2025

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

1. The District Munsif Court,
Kovilpatti.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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