



C.R.P.(PD)(MD).No.986 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.986 of 2025

and

C.M.P.(MD)No.5301 of 2025

Muthumari

... Petitioner

Vs.

1.Mariyappan
2.Chitra

... Respondents

PRAYER: Civil Revision Petition - filed under Article 227 of Constitution of India, to call for the records relating to the impugned fair and decreetal order dated 11.12.2024 passed in I.A.No.2 of 2024 in A.S.No.6 of 2023 on the file of the Additional District Court, Tenkasi in O.S.No.13 of 2010 dated 07.12.2022 on the file of the Sub Court, Sankarankovil, Tenkasi District and to set aside the same by allowing the above civil revision petition.

For Petitioner	: Ms.S.Mahalakshmi
For R1	: Mr.R.J.Karthick
For R2	: Ex-parte



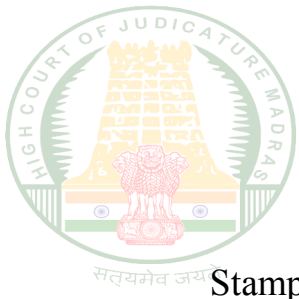
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ORDER

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The Civil Revision Petition is filed challenging the fair and decreetal order dated 11.12.2024 passed in I.A.No.2 of 2024 in A.S.No.6 of 2023 on the file of the Additional District Court, Tenkasi in O.S.No.13 of 2010 dated 07.12.2022 on the file of the Sub Court, Sankarankovil, Tenkasi District

2.The petitioner is the plaintiff in O.S.No.13 of 2010 filed for partition. The said suit was decreed on 07.12.2022. As against the decree and judgment, the respondents/defendants 2 and 4 filed an appeal before the lower Appellate Court in A.S.No.6 of 2023. During the pendency of the suit, the first respondent/second defendant filed an application in I.A.No.53 of 2011 seeking permission to mark the relinquishment deed, dated 06.06.2007, which was allegedly executed by the petitioner in favour of the first respondent. The said application was dismissed. Challenging the same, the second defendant filed a Civil Revision Petition in C.R.P.(MD)No.1338 of 2011 before this Court and this Court has also dismissed the revision. Thereafter, the suit was decreed. Now in the appellate stage, the second defendant filed an application in I.A.No.2 of 2024 under Order XIII Rule 8 and Section 151 of CPC to refer the alleged relinquishment deed under Section 33 of the



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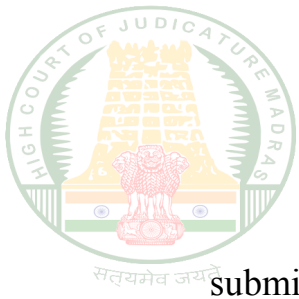
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Stamp Act to the Sub Collector (Stamps) for determination of the Stamp duty.

The said application was allowed. Challenging the same, the petitioner/plaintiff filed the present petition.

3.The learned counsel for the petitioner would submit that the very same document, which is now sought to be referred to the District Collector (Stamps) was refused to be marked by the trial Court in I.A.No.53 of 2011 as well as this Court in C.R.P.(MD)No.1338 of 2011. Now, the said document cannot be directed to be referred to the Stamp Collector under Section 33 of the Stamp Act even to rely upon the same for collateral purpose. Therefore, the order of the trial Court is liable to be interfered with.

4.The learned counsel for the first respondent would submit that though the earlier attempt of the second defendant to mark the relinquishment deed before the trial Court was rejected and the same was affirmed by this Court, it is not a bar for the second defendant to file a petition under Order XIII Rule 8 of CPC seeking to refer the document for determination of stamp duty in terms of Section 33 of the Stamp Act. The said issue was rightly appreciated by the trial Court and the same need not be inferred with. In support of his



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submission, he relied upon the decision rendered by this Court in C.R.P.No. 3723 of 2024 dated 13.09.2024.

5.Considered the rival submissions made on either side and perused the materials placed on record carefully.

6.The facts in the present case are not in dispute. Admittedly, the petitioner is the plaintiff in the suit for partition in O.S.No.13 of 2010 as against the respondents. During the pendency of the suit, the first respondent/second defendant filed an application in I.A.No.53 of 2011 seeking permission to mark the unregistered relinquishment deed dated 06.06.2007, which was allegedly executed in favour of the first respondent by the petitioner. The said application was dismissed by the trial Court and the said order was affirmed by this Court in C.R.P.(MD)No.1338 of 2021. Thereafter, the suit was decreed and as against the decree and judgment of the trial Court, the first respondent/second defendant filed an appeal in A.S.No.6 of 2023. During the pendency of the appeal, the first respondent/second defendant filed an application in I.A.No.2 of 2024 for referring the alleged unregistered relinquishment deed dated 06.06.2007 to the Stamp Collector for



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Act.

determination of stamp duty under the provisions of Section 33 of the Stamp Act.

7.For better appreciation Section 33 of the Stamp Act is extracted hereunder:

“Examination and impounding of instruments- Every person having by law or consent of parties authority to receive evidence, and every person in charge of a public office, except an officer of police, before whom any instrument, chargeable, in his opinion, with duty, is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same’.”

8.A bare perusal of the above provision makes it clear that Section 33 of the Stamp Act empowers any officer in charge of a public office to impound an instrument,if it is not duly stamped. The said provision, however, is not applicable to the proceedings pending before the Court of law. In the course of judicial proceedings in a civil Court, the applicable provision is Section 35 of the Stamp Act, which mandates that the instruments, which are not duly stamped, are inadmissible in evidence.



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9.In the present case, already the first respondent/second defendant filed an interlocutory application for marking an unregistered document, which was rejected by the trial Court as well as by this Court. Now, without obtaining leave of the Court for payment of stamp duty even for collateral purpose under Section 49 of the Registration Act, filing application seeking to refer the document for determination of stamp duty under Section 33 of the Act is not sustainable. Therefore, the decision rendered by the trial Court is liable to be interfered with.

10.Accordingly, the order passed by the trial Court in I.A.No.2 of 2024 is hereby set aside and this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

04.08.2025

NCC : Yes/No

Internet : Yes / No

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To

1.The Additional District Court, Tenkasi.

2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

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M.DHANDAPANI,J.

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