



C.R.P(MD)No.1684 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.1684 of 2022
and
C.M.P(MD)No.7398 of 2022

1.Amutha

2.Aravind Sha

3.Boopathi Raj

4.Bhuvanasha

5.Susila Sha

... Petitioners/Petitioners 1-5/
Defendants 3,5-8

Somasundaram @ S.S.Sundaram (Died)

... -----/6th Petitioner/
9th Defendant

6.Shenthilvel

... Petitioner/7th Petitioner/
10th Defendant

7.S.Manikandan

8.M.Manjula

... Petitioners/Respondents 6&7/
Lrs of the 9th Defendant

Vs.

1/10



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Raju @ Mohanasundaram (Died)

... ---/1st Respondent/
1st Plaintiff

1.M.Selvi

2.A.Visalakshi

3.M.Sundaralingam

4.M.Om Prakash

... Respondents/Respondents 2-5/
Plaintiffs 2-5

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed in I.A.No.105 of 2020 in O.S.No.1058 of 1994 on the file of I Additional Sub Court, Madurai, dated 14.06.2022.

For Petitioner : Mr.H.Arumugam

For R1 - R4 : Mr.L.Shajichellan

ORDER

The defendants 3, 5 to 8 in O.S.No.1058 of 1994 on the file of I Additional Sub Court, Madurai are the revision petitioners herein.



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2. The respondents in the revision petition as plaintiffs have filed the above said suit for the relief of declaration of title and permanent injunction. A perusal of the plaint averments reveal that the plaintiffs have relied upon a Varthamana letter, dated 30.10.1988 in Paragraph No. 9 of the plaint. The plaintiffs have also relied upon an undertaking letter, dated 21.01.1987 in Paragraph No.10 of the plaint.

3. A perusal of these two documents reveal that the document, dated 30.10.1988 is said have been executed by the 1st defendant in favour of the deceased plaintiff relinquishing his share. The document, dated 21.01.1987 has been executed by the 2nd defendant in favour of the deceased plaintiff which is an undertaking letter that she would not make any claim over the property.

4. These two documents are unregistered and unstamped documents. These documents were marked by P.W.1 during his chief-examination as Exhibits A.3 and A.4 respectively. At the time of marking of the documents, the defendants strongly objected to the marking of



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these documents on the ground that both of them are unregistered and unstamped documents and they cannot be relied upon. However, the trial Court has proceeded to mark the documents as Exhibits A.3 and A.4.

5. When the suit was posted for the evidence on the side of the defendants, the defendants have filed I.A.No.105 of 2020 to eschew Exhibits A.3 and A.4 documents on the ground that these two documents are unregistered and unstamped documents and they cannot be relied upon even for the collateral purposes. This application came to be dismissed on the ground that the defendants had remained silent for a long time after the marking of Exhibits and the present application has been filed only to drag on the suit which is already 27 years old. The trial Court further found that it is not inclined to reject Exhibits A.3 and A.4 at this stage. However, the proof, relevancy and admissibility will be decided during the final disposal of the suit. Challenging the said order, the present revision petition has been filed.

6. According to the learned counsel appearing for the revision petitioners, these two documents, namely Exhibits A.3 and A.4 are relied



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upon by the plaintiffs for claiming title to the property. These two documents are unregistered and unstamped documents. Therefore, they cannot be used even for collateral purposes. He further contended that the defendants have raised strong objection at the time of marking of these documents. However, ignoring the said objection, these two documents have been marked. He further contended that as far as admissibility of a document is concerned, it could be raised at any stage of the suit and therefore, the delay cannot be a ground for dismissing the application to eschew Exhibits A.3 and A.4.

7. The learned counsel for the revision petitioners has also relied upon the judgment of the Hon'ble Supreme Court reported in **(2001) 3 SCC 1 (Bipin Shantilal Panchal Vs. State of Gujarat & Another)** to impress upon the Court that where an objection has been raised with regard to the non-payment of the stamp duty, the issue has to be decided then and there and it cannot be relegated to the final hearing. The learned counsel for the revision petitioner has also relied upon the judgment of this Court reported in **2020 (1) CTC 47 (Thangamuthu & Others Vs. A.Jeyaraj)**, wherein this Court has held that even when no objection was



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raised at the time of marking a document, if the objection relates to admissibility of a document, it can be raised at any stage of the proceedings. Hence, he prayed for allowing the revision petition.

8. Per contra, the learned counsel appearing for the respondents contended that the suit is of the year 1994 and the disputed documents, namely Exhibits A.3 and A.4 were marked through P.W.1 on 08.10.2007. The present application has been filed on 13.01.2020 to eschew those two documents in a belated stage only to drag on the proceedings. When the trial Court has already found that the admissibility could be decided at the time of final disposal of the suit, there cannot be any grievance for the revision petitioners.

9. I have carefully considered the submissions made on either side and perused the material records.

10. A perusal of Exhibit A.3 reveals that it is a Varthamana Letter executed by the 1st defendant in favour of the deceased plaintiff relinquishing his share in the suit schedule properties. A perusal of



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Exhibit A.4 reveals that it is an undertaking deed/release deed said to have been executed by the 2nd defendant to the deceased plaintiff. At the time of marking of these two documents, objection has been raised by the defendants and it was also recorded in the deposition of P.W.1. Now, the trial Court has found that the present application to eschew these two documents has been filed belatedly and relegated the issue of admissibility to the final disposal of the suit. The Hon'ble Supreme Court in a judgment reported in **(2001) 3 SCC 1 (Bipin Shantilal Panchal Vs. State of Gujarat & Another)** in Paragraph No.14 has held as follows:

“14. When so recast, the practice which can be a better substitute is this: Whenever an objection is raised during evidence-taking stage regarding the admissibility of any material or item of oral evidence the trial court can make a note of such objection and mark the objected document tentatively as an exhibit in the case (or record the objected part of the oral evidence) subject to such objections to be decided at the last stage in the final judgment. If the court finds at the final stage that the objection so raised is sustainable the Judge or Magistrate can keep such evidence excluded from consideration. In our view there is no illegality in adopting such a course.



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(However, we make it clear that if the objection relates to deficiency of stamp duty of a document the court has to decide the objection before proceeding further. For all other objections the procedure suggested above can be followed.)”

11. In view of the judgment of the Hon'ble Supreme Court, it is clear that whenever an objection is raised during evidence-taking stage, the objection can be recorded and the document can be marked tentatively. However, objections have to be considered in the final judgment. In the present case, the objection has been raised with regard to the deficit stamp duty also.

12. Considering the fact that the suit is of the year 1994 and the document has been marked in the year 2007 and the present application has been filed in the year 2020 to eschew the document, this Court is not inclined to interfere in the order passed by the trial Court. It is needless to point out that the admissibility of the document shall be decided by the trial Court during the final disposal of the suit.



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WEB COPY 13. With the said observations, this Civil Revision Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

18.02.2025

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

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To

- 1.The I Additional Sub Court,
Madurai,
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Order made in
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