

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.06.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.[PD](MD)No.1571 of 2021

and

C.M.P.(MD)No.8601 of 2021

Kaliya Thevar

..Petitioner

Vs.

1.Subbulakshmi

2.Malliga

3.Vallisundari

4.Balamurugan

5.Subramanian

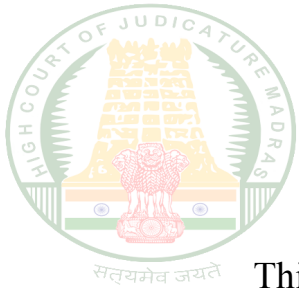
...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the docket order passed in O.S.No.211 of 2014 dated 08.01.2020 by the learned District Munsif, Srivaikundam.

For Petitioner : Mr.S.Muthumalai Raja

For R-1 to R-4 : Mr.M.P.Senthil

For R-5 : No Appearance



ORDER

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This petition has been filed seeking orders to set aside the docket order passed in O.S.No.211 of 2014, dated 08.01.2020, by the learned District Munsif, Srivaikundam.

2. The respondent Nos.1 to 4 / plaintiffs filed a suit in O.S.No.211 of 2014 before the learned District Munsif, Srivaikundam, seeking declaration, redemption of mortgage, and recovery of possession of the suit property. During the pendency of the suit, the petitioner / first defendant filed an interlocutory application in I.A.No.1 of 2019 in O.S.No.211 of 2014 under Section 151 of the Code of Civil Procedure, to receive an unregistered sale deed as evidence for collateral purposes. The said application was allowed by the learned District Munsif, Srivaikundam, on 04.07.2019. Challenging the docket order subsequently passed by the learned District Munsif on 08.01.2020, the petitioner has filed the present Civil Revision Petition.

3. The learned counsel appearing for the petitioner would submit that respondent Nos.1 to 4 / plaintiffs' maternal grandfather, viz., Subbiah Thevar, executed a registered mortgage deed dated 19.02.1987 in favour of the petitioner and received a sum of Rs.4,000/- as consideration. After his demise, his daughter inherited the property, and upon her death, the respondent Nos.1 to 4 / plaintiffs became the owners of the suit property. It was further contended



that the mortgage deed stipulated that, in the event of non-redemption within three years, the ownership of the property would automatically vest with the mortgagee, namely, the petitioner. Based on this, the petitioner claims ownership over the property.

3.(i). It is also stated that Subbiah Thevar subsequently executed an unregistered sale deed dated 05.01.1990 in favour of the petitioner, which could not be marked earlier. Hence, the present application was filed to receive the said document in evidence for collateral purposes. It is contended that marking the document for collateral purposes would not cause any prejudice to the respondent Nos.1 to 4 / plaintiffs and that the dismissal of the application is not sustainable in law.

4. Per contra, the learned counsel appearing the respondents 1 to 4 would submit that the issue arose in this Civil Revision Petition is no longer *res integra*, and is squarely covered by the decisions of this Court in the case of ***Thangamuthu and Others vs. A. Jeyaraj*** reported in **2019 (4) L.W. 602**, and in the case of ***M.Ahamed Jesimabanu and another vs. A. Mohamed Maideen and Others***, reported in **2025 (2) L.W. 309**.

5. It was contended that an unregistered sale deed is inadmissible in evidence under the Registration Act and the Indian Stamp Act, and cannot be



admitted even for collateral purposes if the purpose of production is to prove title.

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6. The main issue arising in this case is whether the unregistered sale deed sought to be marked can be admitted in evidence for collateral purposes.

7.(i). Useful reference can be made to the decision of this Court in the case of ***Thangamuthu and Others vs. A. Jeyaraj***, cited supra, wherein this Court has held:

“ 12. It is clear from the judgments that have been cited on the side of the petitioners that a document, which is compulsorily registrable under the Registration Act, cannot be admitted in evidence, unless, it is registered. If a document is inherently bad for non-registration, it cannot be cured by paying deficit stamp duty and penalty. It is even a settled position of law that such documents cannot be looked into even for collateral purposes.

13. It is not necessary to extract all the judgments cited by the learned counsel appearing on either side, since the law is well settled in this regard.

14. The judgments that have been cited by the learned counsel for the respondent may not come to his aid, since the Hon'ble Supreme Court in those judgments has categorically held that in view of Section 35 of the Stamp Act, 1899, the



document, which falls under the said provision, shall not be admitted for any purpose whatsoever. This would also include for collateral purpose.

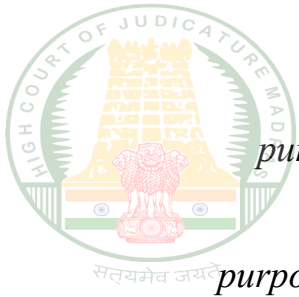
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15. In view of the above settled position of law, the Court below went wrong in giving such a liberty to the respondent to pay sufficient stamp duty and thereafter, mark the document. Such liberty ought not to have been given by the Court below, since the document in question is per se inadmissible. Therefore, the liberty granted by the Court below in the order passed in I.A.No.800 of 2011 in O.S.No. 228 of 2017, dated 28.10.2011, is hereby set aside. ”

7.(ii). Further, in the case of ***M. Ahamed Jesimabanu and Another vs. A.***

Mohamed Maideen and Others, it was observed:

“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 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.”

6. In the present case, the petitioner seeks to rely upon an unregistered sale deed dated 05.01.1990 to assert title over the suit property. As held in the decisions referred to above, such a document, being unregistered and relied upon to establish title, is inadmissible in evidence, even for collateral purposes.

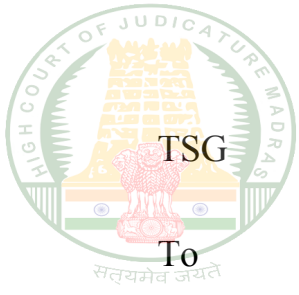
7. In view of the above settled legal position, this Court feels that the docket order passed by the trial Court cannot be found fault with.

8. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

18.06.2025

Internet: Yes/No

Index: Yes/No



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1.The District Munsif, Srivaigundam

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



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M.DHANDAPANI, J.

TSG

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