



CRP(MD). No.3054 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 20.02.2026

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

CRP(MD). No.3054 of 2025
and CMP(MD).No.17216 of 2025

Gururaj

... Petitioner

Vs.

1.Selvakumar

2.Palanisamy

3.Thangappa

... Respondents

PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed by the learned District Munsif Cum Judicial Magistrate, Illupur in I.A.No. 6 of 2024 in O.S.No. 71 of 2019 dated 19.06.2025.

For Petitioners : Mr.M.Rajarajan

For Respondents : Mr.K.Dinesh for R1

Ms.V.Subha, Legal aid counsel
for R2 & R3

ORDER

This Civil Revision Petition has been filed seeking to set aside the order passed by the learned District Munsif-cum-Judicial Magistrate, Illupur, in I.A.No.6 of 2024 in O.S.No.71 of 2019, dated 19.06.2025.



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2. Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the first respondent and perused the materials available on record.

3. Challenging the order passed by the trial Court permitting the marking of a document, which is an unregistered sale deed, this petition has been filed. The trial Court allowed the above said petition on the ground that the document has to be impounded and marked for collateral purpose.

4. The learned counsel for the petitioner pointed out that when the said document is a sale deed, the admissibility of the said document can be considered only if the document is registered, as contemplated under Section 49 of the Registration Act, whereas the present document is an unregistered sale deed, which cannot be marked.

5. Per contra, the learned counsel appearing for the first respondent submitted that it is not in dispute that it is an unregistered sale deed and that the suit is one for permanent injunction alone and not for a declaration of title. Therefore, this document has to be marked only for the purpose of collateral



purpose to establish that he is in possession of the suit schedule property.

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6.In support of the same, he relied upon the order passed by this Court in the case of ***V.Ramesh Vs. V.Nagaraj in C.R.P.No.4305 of 2024***, dated 04.06.2024, wherein it has been held as follows:

“19. On a careful perusal of the above said judgments, it is clear that non-effect of registration of the document in terms of Section 49 of the Registration Act does not bar the use of an unregistered document for collateral purpose. In the case on hand also the petitioner/plaintiff pleaded that he purchased the property through an unregistered sale deed and he filed the suit only for relief of permanent injunction and not for declaration by claiming title over the property. Therefore, the said document can be received as evidence for collateral purpose to prove possession of the property, subject to proof and relevancy.

.....

23.On a careful perusal of the above said judgments, it is clear that if the defendant wants to prove the sale through an unregistered sale deed, it cannot be received as evidence and in the written statement or in the application without any averments in respect of collateral purpose, the said unregistered document cannot be received for collateral purpose. As far as the judgment in Thangamuthu and Others vs. A.Jeyaraj reported in 2020 (1) CTC 47 is



concerned, the learned Judge has not discussed about Section 49 of the Registration Act and only referred to Section 35 of the Stamp Act, 1899. Whereas, the judgments relied on by the petitioner/plaintiff clearly show that even an unregistered sale deed which is compulsorily registrable can be looked into for the purpose of proving possession and not for the main purpose of sale of property. In the case on hand also the suit is filed only for permanent injunction and not for declaration of title over the property and thereby, the said unregistered sale deed dated 08.02.1999 can be marked as a document under the proviso to Section 49 of the Indian Stamp Act for collateral purpose.

24.The Trial Court has failed to consider the above said aspect and erroneously held that the plaintiff wants to mark the unregistered document on his side to prove his possession in the suit property, which was objected to by the defendant, being an unregistered sale deed. As per Section 17 of the Registration Act and Section 49 of the Registration Act, the above said unregistered sale deed requires registration. The above said unregistered sale deed dated 08.02.1999 cannot be looked into for collateral purpose to prove possession of the property. Hence, the document cannot be permitted to be marked as an exhibit at the time of trial.

25.The Trial Court failed to consider that even an inadmissible document can be looked into for collateral



purpose, provided the party who wants to rely on it pays the stamp duty together with penalty and gets the document impounded as per law laid down by the Hon'ble Supreme Court in Yellapu Uma Maheswari v. Buddha Jagadheeswara Rao reported in 2015 (16) SCC 787.”

7.In the above case, the learned Single Judge of this Court referred to several precedents and stated that the document could be accepted as collateral purpose.

8.He also relied upon the judgment of the Hon'ble Supreme Court in the case of ***Yellapu Uma Maheswari and another Vs. Buddha Jagadheeswararao and others*** reported in ***(2015) 16 SCC 787***, wherein it has been held as follows:

“Then the next question that falls for consideration is whether these can be used for any collateral purpose. The larger Bench of the Andhra Pradesh High Court in Chinnappa Reddy Gari Muthyala Reddy Vs. Chinnappa Reddy Gari Venkata Reddy, AIR 1969 A.P. 242, has held that the whole process of partition contemplates three phases i.e., severance of status, division of joint property by metes and bounds and nature of possession of various shares. In a suit for partition, an unregistered document can be relied upon for collateral purpose i.e., severance of title and nature of possession of various shares but not for the



primary purpose i.e., division of joint properties by metes and bounds. An unstamped instrument is not admissible in evidence even for collateral purpose until the same is impounded. Hence, if the appellants/defendants want to mark these documents for collateral purpose, it is open to them to pay the stamp duty together with penalty and get the document impounded and the Trial Court is at liberty to mark Exhibits B-21 and B-22 for collateral purpose subject to proof and relevance.”

9.In this case, the Hon'ble Supreme Court has held that the document could be marked after impounding.

10.Per contra, the learned counsel for the first respondent relied upon the order of this Court made in the case of **Jayanthi Vs. Pichapillai** reported in **2025 (5) CTC 139**, wherein it has been held as follows:

“The trial Court has lost sight of the fact that Section 49 permits a party to rely on even an unregistered document, as long as no right is sought to be established under the said document. Here, the specific case on which the application came to be filed was that the petitioner wanted to establish the commencement of possession being with the revision petitioner and incidentally the factum of possession being with the revision petitioner. It is certainly for a collateral purpose as held by the Hon'ble Supreme



Court as well as this Court. However, at the same time, the document being unstamped, if at all the petitioner intends to rely on the same, he has to be prepared to pay necessary deficit stamp duty along with penalty as applicable and subject to the same, the document shall be received and shall be looked into by the trial Court only for ascertaining the factum of the date on which the possession came to be with the revision petitioner and not for any other purpose.”

11.Per contra, the learned counsel for the petitioner relied upon another judgment of the Hon'ble Supreme Court of India made in the case of ***K.B.Saha and Sons Pvt. Ltd. Vs. M/s. Development Consultant Ltd.*** reported in ***CDJ 2008 SC 979***, wherein the Hon'ble Supreme Court of India has held as follows:

“21. From the principles laid down in the various decisions of this Court and the High Courts, as referred to hereinabove, it is evident that:

1.A document required to be registered is not admissible into evidence under Section 49 of the Registration Act.

2.Such unregistered document can however be used as evidence for collateral purpose as provided in the proviso to Section 49 of the Registration Act.

3.A collateral transaction must be independent of, or divisible from, the transaction to effect which the law requires registration.

4.A collateral transaction must be a transaction not itself



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required to be effected by a registered document, that is, a transaction creating any right, title or interest in immovable property of the value of one hundred rupees and upwards.

5.If a document is inadmissible in evidence for want of registration, none of its terms can be admitted in evidence and using a document for the purpose of proving an important clause would not amount to using it for a collateral purpose.”

12.Five classes have been enumerated with regard to the admissibility of the document and the said judgment refers to 'Class 4'. The same is extracted hereunder:

“4. A collateral transaction must be a transaction not itself required to be effected by a registered document, that is, a transaction creating any right, title or interest in immovable property of the value of one hundred rupees and upwards.”

13.There is no dispute with regard to the proposition of law concerning the admissibility of a document which has to be registered. Here, as rightly pointed out by the first respondent, if the document is sought to be marked only for collateral purpose in a suit for permanent injunction, there cannot be a bar. Therefore, there is no need to interfere with the order passed by the trial Court. It is made clear that the purpose of marking this document is only to establish



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possession and not with regard to the right or title over the property to that extent.

14.This Civil Revision Petition is disposed of in the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

15.The Court places on record its appreciation for the commendable efforts of the legal aid counsel for the respondents 2 and 3, namely, Ms. V. Subha, for conducting the case diligently and providing valuable assistance to this Court. The High Court Legal Services Committee attached to this Bench shall pay a total sum of Rs.10,000/- towards remuneration to the legal aid counsel for conducting the case, within a period of two weeks from the date of receipt of a copy of this order, without fail.

16.The Registry is directed to forward a copy of this order to the Legal Services Committee for information.

Speaking : Yes / No
NCC : Yes / No

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Internet : Yes / No
Index : Yes / No

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To

- 1.The District Munsif cum Judicial Magistrate, Illupur.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.
- 3.The Legal Aid Committee,
Madurai Bench of Madras High Court, Madurai.



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N.SENTHILKUMAR, J.

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