



C.R.P(MD).No.3011 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.02.2024

CORAM :

THE HON'BLE MR JUSTICE G.ILANGO VAN

C.R.P(MD).No.3011 of 2023 and
CMP(MD).No.15524 of 2023

V.Saravana Babu

.. Petitioner

Vs.

1.P.Thangakumar
2.K.Chandrakumar
3.S.Saritha

... Respondents

PRAYER:- Petition filed under Article 227 of the Constitution of India against the order, dated 08.09.2023 in I.A.No.1210 of 2023 in O.S.No. 124 of 2022 on the file of the Principal Subordinate Judge, Thanjavur.

For Petitioner : Mr.A.Sivasubramanian
For 1st respondent : Mr.A.Arunprasad

ORDER

The suit in O.S.No.124 of 2022 was filed by the first respondent herein / plaintiff against the revision petitioner / defendant and others seeking the relief of permanent injunction not to evict them otherwise then under process of law.



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2. Pending trial process, the first respondent / plaintiff tried to mark the certain documents, for which, he filed I.A.No.1210 of 2023. The petitioner herein has raised objection for marking of the documents stating that the said documents are not relevant to the suit. After hearing both sides, the trial Court permitted the first respondent / plaintiff to mark the disputed documents. Aggrieved over the observations made by the trial Court, the revision petitioner / defendant filed this Civil Revision Petition.

3. The learned counsel for the petitioner relied the paragraph No.7 of the order passed by the trial Court in I.A.No.1210 of 2023, which reads as follows:

“7. From the above contention, this Comes to the conclusion that the plaintiff filed the suit for permanent injunction against the present defendants not to disturb. But the plaintiff becomes the owner of the property by way of sale deed from the original owners of the property. But herein the defendants are only the legal heirs of the predeceased cultivating tenant. The suit is not for deciding the ownership of the plaintiff or to decide the cultivating tenancy of the defendants but it is filed simply for the purpose of deciding the permanent injunction of the plaintiff whether he is entitled or not. For that the plaintiff relying upon the possession from



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the defendants by the questioned document. Even though, the defendants claims that the documents to be registered but denied the receiving of amounts and handing over the possession. The person who claims must be equity. Even after receiving the amount and executing the document in favour of the plaintiff, the defendants want to disturb the plaintiff even though receiving huge amount. On the beneficial view, it is clear that the plaintiff is not getting over nay title upon the suit property upon the virtue of questioned document. But he got title from the legally entitled original owners but the possession was hand over by the defendants in favour of the plaintiff is the content in the questioned document. Therefore, the defendants agitate vehemently, but the agitation is willful one. Every question is to be answered within the limitation by means of issues. In the instant case, the document is only for the purpose of collateral to show the possession of the plaintiff from the defendants. Therefore, for the purpose of collateral the registration of document is not necessary, the questioned document herein can be looked into. Therefore, there is no necessary to pay the additional stamp duty and the adjudication. Therefore, the question is answered positively that the plaintiff is entitled for relying and marking the documents even though it is unregistered and not properly stamped for the purpose of collateral purpose.”

4. By pointing out this observation it is contended by the learned counsel for the petitioner that while deciding the admissibility of the document, the trial Court has went into the merits of case. If such observation is allowed to stand in the order, then his right will be affected during the trial process.



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5. Per contra, learned counsel appearing for the first respondent submitted that an observation has been made with reference to the arguments advanced by both sides and that observation is not going to effect the merit of the case at the time of final disposal of the suit.

6. Reading of the observation, it is made clear that the trial Court went into the merits of the matter based upon the document, it may not be necessary. The trial Court has to see the relevancy and admissibility of the documents at the relevant point of time. If such observations are allowed stand in the record, then rights of the parties will be seriously prejudiced. So on that ground, the particular observation made by the trial Court in I.A.No.1210 of 2023 in O.S.No. 124 of 2022 on the file of the Principal Subordinate Judge, Thanjavur is ordered to be removed and the parties are at liberty to putforth their arguments at the time of hearing suit in respect of the admissibility of the documents.

7. With the above observation, this Civil Revision Petition is disposed of. No costs. Consequently, the connected Miscellaneous



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Petition is closed.

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29.02.2024

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
trp

To

The Principal Subordinate Judge, Thanjavur.



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G.ILANGO VAN,J.

Trp

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