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Jayanthi vs Pichapillai

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Court : Chennai

Decided On : Aug-28-2025

Judge : Honourable Mr.Justice P.B. Balaji

Appeal No. : CRP/2600/2025

Appellant : Jayanthi

Respondent : Pichapillai

Judgement :

THE HIGH COURT OF JUDICATURE AT MADRAS DATED: 28.08.2025

CORAM:

THE HON'BLE MR. JUSTICE P.B. BALAJI and C.M.P. No.14739 of 2025 Jayanthi ... Petitioner vs. Pichapillai ... Respondent Prayer : C.R.P. filed under Article 227 of the Constitution of India against the fair and decreetal order of the Principal District Munsif Court at Ariyalur, dated 28.10.2024 in I.A. No.2 of 2024 in O.S. No.83 of 2014. For Petitioner : Mr.T. Deeraj For Respondent : No apperance ------

ORDER

Heard Mr.T. Deeraj, learned counsel for the petitioner. Despite service of notice on the respondent, the respondent has neither appeared in person, nor through a counsel.

2. The petitioner is the 5th defendant in O.S. No.83 of 2014. An application in I.A. No.2 of 2020 was taken out to mark an unregistered

Sale Deed, dated 31.10.1988. The trial Court finding that the petitioner is attempting to establish title through the said document, proceeded to dismiss the application. Aggrieved by the said order, the present revision has been filed.

3. The learned counsel for the petitioner states that the said unregistered Sale Deed is sought to be marked as a document only in

order to establish the factum of possession, more specifically the

> commencement of possession being with the 1st defendant and subsequently with the 5th defendant. It is therefore the contention of Mr.T. Deeraj, learned counsel for the petitioner that the purpose for which the unregistered document is sought to be marked is only for collateral purpose. However, the trial Court has dismissed the application finding that admittedly the document is not a registered one as required under Section 17 of the Registration Act, and therefore, the petitioner cannot be permitted to mark the said unregistered Sale Deed.

4. The learned counsel also relies on the following decisions : i) Bondar Singh and others vs. Nihal Singh and others reported in (2003) 4 SCC 161. ii)Ramamoorthy vs. 1. M.Shanmugam and 2 others reported in

(2009) 6 CTC 609. iii) Mayilu Ammal and another vs. Renganathan reported in

(2005) 5 CTC 424.

5. The Hon'ble Supreme Court in Bondar Singh's case has categorically held that an unregistered Sale Deed can be looked into for ascertaining the nature of possession.

6. In Ramamoorthy's case also, this Court held that an unregistered conveyance deed can be looked into for ascertaining the nature of possession and also boundaries of property.

7. In Mayilu Ammal's case, as well, this Court relying on ratio laid

down in Bondar Singh's case held that an unregistered and unstamped document can be looked into for collateral purpose viz., for finding out nature of possession of the suit property.

8. I have carefully considered the submissions advanced by the learned counsel for the petitioner and I have also gone through the decisions on which reliance is placed on by the learned counsel for the petitioner.

9. The learned counsel for the petitioner has also taken me through the written statement filed in the said suit as well the application filed in

> I.A. No.2 of 2020, wherein, it is specifically contended that the purpose of marking the said unregistered document is only to establish the date of commencement of possession with the defendants viz., the 1st defendant, father and subsequently with the 5th defendant. The trial Court without adverting its attention to the request made by the petitioner has merely proceeded to hold that Section 54 of the Transfer of Property Act, 1882 read with Section 17 of the Registration Act, 1908 requires the Sale Deed to be registered and duly stamped and in the instant case, the Sale Deed being unregistered as well as unstamped, cannot be permitted to be received as document.

10. 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. In the light of the above, the C.R.P. is allowed and order in I.A. No.2 of 2024, dated 28.10.2024 is set aside. No costs. Consequently, connected miscellaneous petition is closed. 28.08.2025 Internet:Yes/No Index:Yes/No

Speaking/Non-speaking order

Neutral Citation : Yes/No vsi2 To The Principal District Munsif Court Ariyalur.

P.B. BALAJI, J.

vsi2 and C.M.P. No.14739 of 2025 28.08.2025

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