

**IN THE COURT OF THE DISTRICT MUNSIF AT MADURANTAKAM**

**PRESENT:** Tmt. V.Devapriya, B.Sc., M.L.,  
District Munsif, Madurantakam

Monday, the 19<sup>th</sup> day of August, 2024

I.A.No.6/2024

in

O.S.No.44/2022

Nagarajan

...Petitioner/Plaintiff

**-vs-**

Valli

...Respondent/Defendant

This petition coming up before me on 02.08.2024 for final hearing in the presence of, Thiruvallargal.N.Ganapathy, P.Sasikala and M.Anjugam, counsel for Petitioner/Plaintiff and Thiruvallargal.K.Thilagaraj and K.Idayaraj, counsels for the Respondent/Defendant and after hearing the arguments on both sides and upon perusing the materials placed on record and having stood over for consideration till this day, this court delivers the following,

**ORDER**

This petition has been filed by the Petitioner/Plaintiff under Section 151 of Code of Civil Procedure, order to mark the Plaint document no.1 on the side of the Petitioner/Plaintiff through him.

**2.The averments stated in the petition in brief :**

The Petitioner/Plaintiff had filed the above suit for permanent injunction and the same is posted for marking of documents. The suit property is a poromboke

property. The Petitioner/Plaintiff had filed the document no.1 at the time of filing of suit to show that the Respondent/Defendant's father had handed over the possession of the suit property to the Petitioner/Plaintiff on 19.12.1998. It is an unregistered document and the same has to be marked for collateral purpose. Hence the petition.

**3. The averments stated in the counter filed by the Respondent/Defendant, in brief :**

This petition is not maintainable in law and on facts. The averments in the affidavit, are false. The sale deed alleged to be executed by the Respondent/Defendant's father, is false and he never executed such sale deed. The Respondent/Defendant is in possession of the suit property till date. The sale for the value above Rs.100/- has to be registered. The Petitioner/Plaintiff had created a fabricated document. The unregistered sale deed is inadmissible in law and cannot be marked even for collateral purpose. The Respondent/Defendant did not admit the alleged sale deed and it does not bind the Respondent/Defendant. This petition is filed to drag on the proceedings. There is no merits in this petition. Hence this petition is liable to be dismissed with costs.

4. The point for determination is whether this petition is to be allowed or not?
5. No exhibits were marked and no witnesses were examined on both sides.
6. Heard both sides and perused the records.

7. The Petitioner/Plaintiff had filed this petition to permit him to mark the plaint document no.1 in the above suit for collateral purpose. The Respondent/Defendant resisted the petition stating that the plaint document no.1 is unregistered document and hence the same is not admissible.

8. The Petitioner/Plaintiff had stated that suit property is a poromboke property and the same was in possession of one Kannan Achari and that the said Kannan Achari had handed over the possession of the same to the Petitioner/Plaintiff as per the plaint document no.1. Admittedly, the said document is unregistered and insufficiently stamped.

9. The learned counsel for the Petitioner/Plaintiff had filed a judgement of the Hon'ble Supreme Court, in the case of *Korukonda Chalapathi Rao and another Vs. Korukonda Annapurna Sampath Kumar*, [Civil Appeal No(s).6141 of 2021 dated 01.10.2021], wherein it was discussed with regard to the family arrangement and after analysing the decision in various cases, it was held as follows:

“ 34. As far as Section 49 (1) (C) of the Registration Act is concerned, it provides for the other consequence of a compulsorily registrable document not being so registered. That is, under Section 49(1) (a), a compulsorily registrable document, which is not registered, cannot produce any effect on the rights in immovable property by way of creation, declaration, assignment, limiting or extinguishment. Section 49(1) (c) in effect, reinforces and safeguards against the dilution of the mandate of Section

*49(1) (a). Thus, it prevents an unregistered document being used 'as' evidence of the transaction, which 'affects' immovable property".*

**10.** Perusal of the plaint document no.1 shows that the same is in the nature of sale deed. The recitals of the plaint document no.1 reveals the fact that the said document was executed by one Kannan Achari in favour of the Petitioner/Plaintiff in respect of a poromboke encroachment land and that the said Kannan Achaari had received a sum of Rs.10000/- towards the costs of making the land suitable and for maintenance of the poromboke land. The recitals of the plaint document no.1 shows that as if the said Kannan Achari had sold the poromboke land to the Petitioner/Plaintiff. Thus, the plaint document no.1 is in the nature of creating an interest over the property and hence as per the above judgement, the said document cannot be admitted in evidence, as it is not registered. Hence for the foregoing reasons, this court is not inclined to allow this petition.

**11.** In the result, this petition is dismissed. No costs.

Typed by me in my laptop, corrected and pronounced by me in open court on this the 19<sup>th</sup> day of August, 2024

District Munsif  
Madurantakam

**Petitioner side witnesses and documents:**

**Nil**

**Respondent side witnesses and documents:**

**Nil**

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