

IN THE COURT OF THE DISTRICT MUNSIF, DEVAKOTTAI**PRESENT : Tmt.R.PREMI, B.A., L.L.B., (Hons).,**

District Munsif, Devakottai

Thursday, the 12th day of March, 2026**IA.No.08/2025****in****OS.No.96/2017**

Karuppaiah

...Petitioner

-Vs-

1. Subramanian

2. Shanmugam

3. Kaliyammal

...Respondents

This petition is coming before me for final disposal in the presence of Thiru.N.Sekar learned advocate for the Petitioner, Thiru.Dharmadurai learned advocate for the Respondents. Having heard of both side enquiry and upon perusing the documents, this court do hereby pronounce the following...

ORDER**The petition is filed under Order XVI and Rule 1(2) of CPC****1. The averments in the petition are as follows:**

The petitioner is the plaintiff in the main suit. The suit has been filed seeking prayer of permanent injunction against the defendants. The petitioner states that the suit properties are the ancestral properties of the petitioner and suit for partition regarding the same has been filed by the petitioner's brother Mr. Muthaiah in O.S.No. 105/1988 which was decreed on 26/03/1991 and stating that the suit properties of this suit along with the other properties belongs to the

petitioner and his brothers and they are entitled to 1/3 share in the same. Following the same, the petitioner's brother, Poosaidurai, has executed a sale deed dated 11/11/2003 with respect to his share of the property and the same was signed by witnesses and the Notary Public Advocate, Mr. Natarajan. The said sale deed has been produced by the plaintiff as their side document. The petitioner owns the suit properties by way of sale from the petitioner's brother, Poosaidurai, by the above said sale deed. The defendants in the main suit has denied the sale deed executed by the plaintiff's/petitioner's brother. When the plaintiff was cross examined by the defendant, they have denied the above said sale deed. In order to prove that the sale deed was executed by the plaintiff's brother and that the same was executed before proper witnesses, it becomes important to examine the Notary Public Advocate, Mr.Natarajan before the court. It becomes important to prove that the said notary public has signed the sale deed after it was properly executed by the petitioner and his brother and was signed by the witnesses. The petitioner states that if the same is not proved, he would be subject to irreparable loss and injury. Hence, he has filed this petition to summon and examine the said Notary Public Advocate Mr. Natarajan, to prove the validity of the said sale deed and prays for the petition to be allowed.

2. Averments in the counter are as follows:

2(i). The 1st respondent is the defendant in the main suit. He is filling this affidavit on behalf of the other respondent. The respondents deny the contentions of the petition and states that the petitioner has filed several petitions before the court which were dismissed. The petitioner has filed a petition to pay a stamp duty penalty for an unregistered sale deed in IA.No.5/2021 which was dismissed by this court on 01-02-2022 after a detailed counter was filed by the respondents. The civil revision petitions against the same has been filed by this petitioner in

CRPMP 2138/2022 and CMPMD 9876/2022 and the same was withdrawn by this petitioner on 08-08-2025. The respondent also states that as per section 17 of the Registration Act 1908, any sale of immovable property over the value of rupees 100 must be registered and any unregistered document regarding this value or above cannot be admitted as a valid piece of evidence. The same has been regulated by various rulings like **Suraj Lamp and Industries Private Limited vs State of Haryana, (2012) 1 SCC 656** and **R. Anunaya vs State of Karnataka, 2015 SCC OnLine Kar 6020, Thiruvengadapillai vs Navaneethammal and many others, (2008) 4 SCC 530**. Also, only the court has the authority to decide with respect to the rights and the revenue officials cannot decide the same. Also, it has been held in the case of **Anathula Sudhakar vs Buchi Reddy, (2008) 4SCC 594** that declaration and injunction cannot be sought for based on an unregistered sale deed. Only if the plaintiff has a right, he can file a suit for permanent injunction and since the plaintiff has no right over the same he should have filed the suit for declaration and permanent injunction. The respondent says that it has been held in the case of **Avinash Kumar Chauhan versus Vijay Krishna Mishra, (2009) 2 SCC 532** that even if the stamp duty penalty was paid under Section 35 of the Indian Registration Act 1908, it can be marked as an evidence but title cannot be obtained based on that.

2(ii). The petitioner having claiming rights based on an unregistered document and despite knowing that he has no right based on that, he is filing this petition with an intent to drag on the proceedings of the case. He also states that the notary public claimed to be examined by the petitioner is now residing in Coimbatore. Despite knowing all these facts, the petitioner has filed this petition to drag on the proceedings of the case. It is a well settled principle that an

unregistered document cannot create any sort of right with respect to any property. Hence, the petition to examine the notary public cannot be admitted. Hence, he prays for the petition to be dismissed.

3. Now the question to be decided is whether the petition has to be allowed or not?

The petition and counter perused. Enquiry heard on both sides. The petition has been filed to summon and examine the notary public who has signed in the unregistered sale deed dated 11-11-2003 executed by the petitioner's brother in favor of the petitioner. The petitioner has stated the reason that it becomes important to prove the validity of the said sale deed. Hence, he has filed this petition. On the other hand, the respondent has denies the contentions of the petitioner and stated that unregistered document cannot create any sort of right and that it cannot be proved in any manner and has sited various citations stating that the said document cannot be relied upon and hence prayed for the petition to be dismissed. Both side averments perused. On perusal of records, it becomes clear that the said document sought to be proved by the petitioner is an unregistered document and the same was also marked as a plaintiff's side document. As stated by the respondent counsel, it is a well settled principle that an unregistered document which must be registered as per Section 17 of the Registration Act 1908, cannot be received as a valid piece of evidence to have created any form of right. The document being an unregistered document and the same having been marked as an exhibit with the objection of the defendant side counsel that it is unregistered the validity of the said objections and the said unregistered document is yet to be decided during the time of judgment, he petition filed at this stage to summon and examine the notary public who has signed in the said document cannot be accepted. It is also clear that the suit was

filed in the year of 2017 and has been pending at this stage of further PWs for a very long time. The document itself being an unregistered document it does not become important to examine the person who has signed in it as the same document cannot be considered as a evidence as per Section 49 of the Registration Act, 1908, since non registration is a defect that cannot be cured in any way, even by examining the parties or the witnesses to it. It is very well known that mere making of an exhibit in trial does not cure the defect in it or render any sort of value to it neither does it make its defect curable. As stated earlier, the validity of the document and the objections regarding the same will be decided during the time of judgment. Hence, filing this petition at this stage to examine the notary advocate to prove the genuineness of the document seems to be unnecessary as suit was filed in the year of 2017 and is pending at the stage of trial for a very long time. This is being a suit for bare injunction it is only important if the plaintiff proves the possession of the suit property and the court does not have any need to deal with the rights or ownership over the property. Hence, this petition lacks merits as the reason stated by the petitioner is not satisfactory. In the end, the petitioner is dismissed. No order has to cost.

4. Decision

In the end, the petitioner is dismissed. No order has to cost.

This Order was dictated by me, typed by the steno-typist, corrected by me and pronounced by me in the open court on 12th day of March 2026.

**District Munsif,
Devakottai.**

Annexures:

List of witnesses on the side of the Petitioners-Nil-

List of documents on the side of the Petitioners-Nil-

List of witnesses on the side of the Respondents-Nil-

List of documents on the side of the Respondents-Nil-

**District Munsif,
Devakottai.**