IN THE COURT OF THE ADDITIONAL DISTRICT MUNSIF OF SANKARANKOVIL

PRESENT: **Selvi. Pavithra G, LL.M.,**

Additional District Munsif, Sankarankovil

On Friday, 3rd day of July 2026

I.A. No. 1/2026 in O.S. No. 41/2009

Balakrishnan … Petitioner/Defendant

- VERSUS -

Subbuthai … Respondent/Plaintiff

This petition came up before this court on 24.06.2026 for final hearing in the presence of Thiru.K.Shanmugaiah, Advocate for the Petitioner/Defendant, Thiru.R.S.S.Prathabraj, Advocate for the Respondent/Plaintiff and upon hearing both the side arguments, perusing relevant records and having stood over before me till this date for consideration and having considered the same, this court delivers the following;

ORDER

The Petitioner has filed the above petition under Order 8 Rule 1A of CPC praying this Court to receive the petition mentioned document and to allow the petitioner to mark unregistered sale deed dated 27.02.2000 as defendant side documentary evidence.

2. BRIEF AVERMENTS OF THE PETITION:

Respondent/Plaintiff had filed this suit seeking for the relief of permanent injunction with respect to 0.00.5 hectares land in survey no. 68/5A and 3 cents vacant land situated in survey no. 68/5B. The petitioner had filed original of sale deed dated 27.02.2000 and original of sale deed dated 05.10.2005 along with IA No. 591/2011. The said petition was filed seeking the Court to determine stamp duty for the said two deeds since they were unregistered documents. In the petition IA No. 591/2011, the petitioner had contended that marking of the aforementioned two documents is necessary for the purpose of proving his case. The said petition was allowed on 12.12.2013. Based on the said order, on 03.02.2026, the petitioner had deposited stamp duty penalty of Rs. 71, 270 for the sale deed dated 27.02.2000 and Rs. 85, 516 for the sale deed dated 05.10.2005 through Challan No. 20260203016351. It is necessary to mark the sale deed dated 27.02.2000 and sale deed dated 05.10.2025 as defendant side documents and such marking is necessary for the defendant to prove his case. The petitioner/defendant is in possession of the properties mentioned in the aforementioned two sale deeds. The respondent does not get affected in any way, through marking of such document. Non-marking of aforementioned documents as defendant side evidence will cause substantial loss to the petitioner. Hence, the petitioner prays this Court to receive the sale deed dated 27.02.2000 and sale deed dated 05.10.2025 and permit the petitioner to mark the said documents as petitioner side documents.

3. BRIEF AVERMENTS OF THE COUNTER:

The petition filed by the petitioner is false, frivolous and vexatious. The fact that a document is unregistered does not get resolved by mere payment of stamp duty penalty. There are many precedents wherein it had been observed that unregistered documents cannot be marked as evidence. Further, in the order passed in IA No. 591/2011, it has been mentioned that in accordance with the observations given in 2011 5 MLJ 463, proceeding with respect to Stamp duty collection could only be taken. In 2024 (6) CTC 399, Honourable Justice P.B. Balaji had observed that mere payment of deficit stamp duty would not cure defect of non-registration and that unregistered document does not pass test of admissibility and cannot be marked as evidence. Hence, the petition filed by the petitioner seeking to receive unregistered sale deeds and seeking permission to mark the said documents as defendant side exhibits, is liable to be dismissed.

4. POINTS FOR CONSIDERATION:

The question to be determined is whether the petitioner is entitled to the relief as prayed for?

5. DISCUSSION AND DECISION:

5.1. Both the side arguments were heard. Available material records were perused. On the petitioner side, it was contended that respondent/plaintiff had filed original of sale deed dated 27.02.2000 and original of sale deed dated 05.10.2005 along with IA No. 591/2011; that the said petition was filed seeking the Court to determine stamp duty for the said two deeds since they were unregistered documents; that in the petition IA No. 591/2011, the petitioner had contended that marking of the aforementioned two documents is necessary for the purpose of proving his case; that the said petition was allowed on 12.12.2013; that based on the said order, on 03.02.2026, the petition had deposited stamp duty penalty of Rs. 71, 270 for the sale deed dated 27.02.2000 and Rs. 85, 516 for the sale deed dated

05.10.2005 through Challan No. 20260203016351 and that it is necessary to mark the sale deed dated 27.02.2000 and sale deed dated 05.10.2005 as defendant side documents and such marking is necessary for the defendant to prove his case. In this regard, decision of Honourable High Court in ***Vasantha Vellaisami v. Vivek Sivagiri [C.R.P. (P.D.) Nos 2782 and 2785 of 2016 and C.M.P. No. 14207 of 2016]*** was cited by the Learned Counsel for petitioner.

5.2. On the respondent's side, it was contended that the petition mentioned documents are unregistered documents; that the aforementioned sale deeds are compulsorily registrable documents; that mere payment of deficit stamp duty would not cure defect of non-registration and that unregistered document does not pass test of admissibility and cannot be marked as evidence. In this regard, decisions of Honourable High Court of Madras in ***Ruckmangathan v. Ramalingam [C.R.P. 1068 of 1997 and C.M.P. No. 5510 of 1997]*** and in ***Muthu v. Sampath and others [2024 (6) CTC 399]*** were cited by Learned Counsel for respondents.

5.3. On perusal of records, it is found that the petitioner/defendant had filed IA No. 591 of 2011 seeking this Court to impound unregistered sale deeds dated 27.02.2000, 26.03.2000 and 05.10.2005. The said petition was allowed and the three documents were sent to be impounded. Out of the three documents, unregistered sale deeds dated 27.02.2000 and 05.10.2005 were impounded. The remaining unregistered sale deed dated 26.03.2000 was not impounded since it was reported by RDO office that stamp duty for the said document could not be fixed since there was no mention of extent of property in the said instrument. So, unregistered sale deeds dated 27.02.2000 and 05.10.2005 have been impounded and stamp duty penalty for the said documents have been paid. After such impounding, the suit was posted for defendant side evidence. During the said stage, petitioner/defendant had filed this petition praying this Court to receive the said impounded unregistered sale deeds dated 27.02.2000 and 05.10.2005 and to mark those unregistered sale deeds as defendant side documentary evidence. In this context, this Court finds it essential to determine as to whether the impounded unregistered sale deeds could be admitted as evidence.

5.4. On perusal of plaint, it is clear that the suit had been filed by the plaintiff praying this Court to grant permanent injunction against the defendant, his legal heirs, agents and servants ordering them not to interfere with the plaintiff's peaceful enjoyment and possession of plaint schedule properties. In the plaint schedule, land in survey no. 68/5A bearing 0.00.5 hectares extent has been shown as the 1st item property and 3 cents land which is situated in western side, excluding 22 cents land in eastern end of 25 cents out of 0.09.5 hectares land in survey no. 68/5B has been shown as 2nd item property. In the plaint, it has been mentioned that the plaint schedule properties belonged to plaintiff through registered sale deed dated 22.07.2008 and that since then, the plaint schedule properties have been under the possession and enjoyment of plaint schedule properties. In the written statement filed on 28.08.2009, it has been mentioned that defendant purchased ¾ cent land belonging to Chinna Gurusamy vagayara through unregistered document dated 27.07.2000; that the defendant had made fence in half of the aforementioned 3 cents of land (plaint schedule 2nd item property) and that he had been in possession of the same. In the additional written statement filed on 11.06.2020, it has been mentioned that the plaint schedule properties are situated within natham survey no. 73; that vacant land in the said natham survey number is ancestral property of defendant vagayara; that the defendant had purchased it from other pangalis through unregistered sale deeds dated 27.02.2000, 26.03.2000, 05.10.2005 and that defendant had been enjoying the schedule properties by dumping waste therein. After perusal of both side contentions, this Court is of the opinion that both parties have claimed that they are in possession of the plaint schedule properties.

5.5. As per Section 54 of the Transfer of Property Act and Section 17 of Indian Registration Act, 1908, sale of an immovable property of the value of hundred rupees and upwards is to be mandatorily registered and if the same is not registered then it cannot be received as an evidence of any transaction affecting such property or conferring such power as u/s. 49 of the Indian Registration Act 1908. However, the said unregistered instrument affecting immovable property can be received as an evidence of any collateral transaction not required to be effected by registered instrument as given in the proviso to S. 49 of the Indian Registration Act.

5.6. In the present case which has been filed seeking for the relief of permanent injunction, the defendant has relied upon the unregistered sale deeds dated 27.02.2000 and 05.10.2005 to establish that he is in possession of the plaint schedule properties. On the petitioner’s side, it was contended that when the defendant has a definite case that possession passed on the basis of the sale deed and if the sale could not be proved, to make use of the document (unregistered sale deed) for the purpose of possession cannot be said as a collateral purpose. In support of the contention, the petitioner has relied upon the decision of Honourable High Court in ***Ruckmangathan v. Ramalingam*** wherein it was held that when the defendant has a definite case that possession passed on the basis of the sale deed and if the sale could not be proved, to make use of the document (unregistered sale deed) for the purpose of possession cannot be said as a collateral purpose; that when the ownership could not be had when there is no registered deed and possession is also part of that transaction, it cannot be said that it is a collateral purpose as found by Lower Court and that if the genuineness of a document is questioned, the execution of the document of itself will have to be proved and that cannot be a collateral purpose. In this context, this Court finds it essential to point out that the said decision was discussed and a contrary observation was found by Honourable High Court of Madras in ***V. Ramesh vs. V. Nagaraj*** [2024 (3) MWN (Civil) 509]. In the said case, in a suit for permanent injunction, the petitioner/plaintiff had filed an unregistered and unstamped sale deed was relied upon for the purpose of proving his possession in the suit property; in that case, considering that the Trial Court had already collected stamp duty penalty from the petitioner/plaintiff and that the said document was relied upon for the purpose of proving his possession in disputed property in permanent injunction suit, the Honourable High Court had ordered for marking of the said unregistered sale deed. In the said case, Honourable High Court had held that even the inadmissible document can be looked into for collateral purpose provided the party who wants to rely on it, should pay the stamp duty together with penalty and get the document impounded and that petitioner/plaintiff is at liberty to file the document for collateral purpose subject to proof and relevancy and it is for the Trial Court to decide whether the said document has been proved in accordance with law, since case is only at the stage of receipt of documents as evidence. After perusal of order of Honourable High Court in ***V. Ramesh v. V. Nagaraj***, this Court is of the opinion that ratio in the said case applies squarely to the facts of present case.

5.7. Further, on perusal of order passed in IA No. 509 of 2011, this Court finds that in the said petition, the petitioner/defendant had specifically contended that he seeks for impounding of unregistered sale deeds for the purpose of marking the said documents as his side evidence and that in the order, this Court had observed that relying upon the decision of Honourable High Court in ***2011 (5) MLJ 463*** and considering that sufficient opportunity should be given to the petitioner to prove his case, the petition is allowed.

5.8. On perusal of decision of Honourable High Court in ***Muthu v. Sampath and others***, this Court finds that in that case, where the defendant had seeked to introduce an unstamped and unregistered release deed, dated 17.06.2002 as evidence on his side and where the Trial Court had ordered for reception of the document while holding that admissibility of the document can be decided later, the Honourable High Court had held that the defendant cannot rely upon the said document for collateral purposes unless the document was duly stamped and registered. In that case, at the time of receiving of unregistered release deed, it was not impounded. In the present case, the document had already been impounded. Further, in that case, the unregistered release deed had been relied upon by the defendant for the purpose of proving the written statement plea that the plaintiff had relinquished his right in the property. In the present case, the impounded unregistered sale deeds have been relied upon by the defendants to establish that he is in possession of the properties mentioned therein. So, the alleged collateral purpose for proving which the unregistered documents have been relied upon, is different in both cases. From the above discussion, this Court is of the opinion that the decision of Honourable High Court in ***Muthu v. Sampath and others*** does not apply to the instant case.

5.9. On perusal of decision of Honourable High Court of Madras in ***Vasantha Vellaisami v. Vivek Sivagiri***, this Court finds that dispute to be decided in that case was related to impounding of power of attorney document. In the present case, the dispute is with regards to receiving impounded unregistered sale deeds as petitioner side evidence. Considering the same, this Court is of the view that decision of Honourable High Court in the aforementioned case does not apply to the instant case.

5.10. In light of the above discussion and in light of the decision of Honourable High Court of Madras in ***V. Ramesh v. V. Nagaraj***, this Court is of the opinion that the impounded unregistered sale deeds could be admitted as petitioner/defendant side evidence for the collateral purpose of proving the nature and character of possession of the properties in the current suit for permanent injunction. Accordingly, this Court allows this petition.

In the result,

This petition is allowed without costs.

This order was typed by me in my laptop, corrected and pronounced by me in the open court on 03.07.2026.

PAVITHRA G

Digitally signed by PAVITHRA G
Date: 2026.07.03 15:54:01 +0300

Additional District Munsif,

Sankarankovil

BOTH SIDE WITNESS AND EXHIBITS MARKED: Nil.

PAVITHRA G

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Date: 2026.07.03 15:54:06 +0300

Additional District Munsif,

Sankarankovil

ADMC, SNKL
I.A.No.1/2026 in
O.S.No.41/2009
Order (Draft / Fair)
Date : 03.07.2026