

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, SANKARANKOVIL.

Present : **Thiru.R.NARASIMMA MOORTHY, L.L.B.,**
Additional District Munsif,
Sankarankovil.

Saturday, the 02nd day of March 2024

I.A.No.5/2023
in
O.S.No.154/2013

1. Meenraj
2. Thanraj
3. Yesuraj

... Petitioners / Defendants 1,2 and 6

/ vs /

1. Madathi
2. The Tahsildar, Sankarankovil
3. The Commissioner, Sankarankovil Municipality
4. The Special Tahsildar,
Adhidraavidar welfare department

...Respondent/Plaintiff

...Respondents 2,3,4/ Defendants 3,4,5

This petition is coming on 07.02.2024 for final hearing before me in the presence of Thiru.A.Ravisankar, Counsel for Petitioners, Thiru.J.Rajasingh, counsel for 1st Respondent and Thiru.N.Arunachalam, Government Pleader for Respondents 2 and 3. 4th respondent set exparte. After hearing both side arguments, perusing and considering documentary evidence and relevant records and having stood over before me till this date for consideration and having considered the same, this court delivers the following;

ORDER

1). Petition filed under Order 8 Rule 1(A) of Code of Civil Procedure by the petitioners/Defendants 1,2 and 6 to receive the documents filed along with the petition and for cost.

2). Gist of the petition :

The western half in the suit property of 2-1/2 cent in Survey No.545/1A2 was originally belonged to Sankaran. He sold the said property to the 2nd petitioner for valuable consideration under an unregistered sale deed dated 18.04.1980. At the time of said purchase, an old tiled house was existing in the said property. Hence the 2nd petitioner demolished the said house and constructed a new terraced house in the southern portion of the said property in the year 1999. The Sankarankovil Municipality allotted Door No.28 to the said house and the 2nd petitioner paid tax for the same. The northern portion of the said house is being kept vacant by the 2nd petitioner. When the said property was converted into natham classification and allotted new natham survey No.47, Block No.49A, ward No.B and the patta for the said property was issued in the name of 2nd petitioner. Then the 2nd petitioner settled the said property to the 3rd petitioner under a registered settlement deed dated 29.05.2007 and since then the 3rd petitioner is enjoying the said property. To prove that the western portion of the suit property belongs to the petitioners, the petitioner produced the original unregistered sale deed dated 18.04.1980 before this court and it is just and necessary to receive the said document. The said document was not produced before this court at the earliest time. The petitioners recently got the said document. The non production of said document in the earlier stage of the suit is neither willful nor wanton. Hence it is just and necessary to receive the said document. Otherwise the petitioners will be put to great loss and hardship.

3). Gist of the counter of the 1st Respondent :

The petition is false and vexatious and not maintainable. It is liable to be dismissed. The respondent denied the averments found in the affidavit filed with the petition. The petitioners have filed this petition seeking permission to receive the unregistered sale deed dated 18.04.1980 and mark the same through the 2nd defendant. The 6th defendant already adduced evidence as DW1. During his evidence, he deposed evidence on behalf of 1st and 2nd defendant also. Hence there is no necessity for 2nd defendant to adduce evidence in this case. Further DW1 has deposed evidence as the original unregistered sale deed dated 18.04.1980 was misplaced. Under such circumstances, the present petition to receive the said document, without explaining the fact that when the said document was found by them, is not acceptable. The said document is created for the purpose of the suit. Since it is an unregistered document the said document, cannot be marked. Hence the petition is liable to be dismissed.

ii). Counsel for respondents 2 and 3 endorsed as this petition may be allowed on terms.

4). On the side of the petitioner, no witness was examined and no Exhibits were marked. On the side of the respondent, no witness was examined and no Exhibits were marked.

5). The points for consideration in this petition is, whether the petition is to be allowed or not?

6). Both side argument heard. Materials perused. The petitioners, who are the defendants 1,2 and 6, have filed present petition to receive the documents produced along with this petition and mark the same as their side exhibits. The petitioners have produced an unregistered sale deed dated 18.04.1980 and the copy of adhar card of 2nd

petitioner. The petitioner wants to produce it said unregistered sale deed dated 18.04.1980. To to prove that the 3rd petitioner/6th defendant purchased the southern portion of the suit property from the father of the 1st respondent/plaintiff. The 1st respondents/plaintiff resisted the case of the petitioners and contested the said unregistered sale deed dated 18.04.1980 is inadmissible in evidence since it is an unregistered document. The 1st respondent did not raise any objection in respect of the 2nd document namely adhar card of the 2nd petitioner/ 2nd defendant filed along with this petition. Hence there is no dispute in receiving the adhar card of the 2nd petitioner/2nd defendant.

7). The learned counsel for the petitioners argued that the proposed sale deed dated 18.04.1980 sought to be received in evidence is a vital document to prove the case of the petitioners/defendants 1,2 and 6 and it can be received for collateral purpose to prove that the possession of the western of the suit property was handed over to the 3rd petitioner/6th defendant by the original owner namely Sankaran who is the father of the plaintiff. The learned counsel further argued that on the basis of said sale deed executed by the father of the plaintiff in favour of the 6th defendant the revenue records were transferred in the name of 3rd petitioner and hence the said document can be received at this stage and the evidenciary value of the said document can be decided in the judgment and hence the said document has to be received and exhibited on the side of the petitioner.

8). The learned counsel for the 1st respondent argued that the sale deed dated 18.04.1980 is an unregistered document and hence it cannot be received in evidence for any purpose. The learned counsel for the 1st respondent further argued that a unregistered sale deed is in admissible document in evidence and hence the proposed sale deed dated 18.04.1980 cannot be admissible in evidence and hence the petition is

liable to be dismissed.

9). Admittedly the proposed sale deed dated 18.04.1980 sought to be received in evidence on behalf of the petitioners/defendants 1,2 and 6 is an unregistered document. A sale deed is a document which requires compulsory registration as per section 17 of Registration Act. Further under “Sec 54 of Transfer of Property Act, it is provided that a sale, in case of tangible immovable property of value of one hundred rupees and upwards, or in the case of reversion or other intangible thing, can be made only by registered instrument. Thus it is clear that the sale of immovable property of value Rs.100/- or more can only be made under a registered instrument.

10). On perusal of the sale deed dated 18.4.1980 which is sought to be received, this court finds that the sale price of the property covered under the said document is mentioned as Rs.100/-. Under such circumstances, the said sale deed dated 18.04.1980 is contrary to the provision of Sec.54 of Transfer of Property Act and hence the sale deed is not at all valid in the eyes of Law. Hence the proposed document which is an unregistered sale deed of value Rs.100/- is inadmissible in evidence. This court relies upon the judgment reported in “2020(1) CTC 47, *Thangamuthu Vs Jayaraj*, in which the Hon'ble High Court of Madras held that document compulsorily registrable under Registration Act, cannot be admitted in evidence, unless it is registered. Document inherently bad for non registration, cannot be cured by paying deficit stamp duty and penalty”.

11). Further this court relied upon the judgement reported in “2020 (1) CTC 246 *Kasinathan.K Vs N.Umasankar* in which it was held that unregistered sale deed effecting transfer of immovable property of whatever value, not admissible in evidence as proof of such transaction. Such unregistered instrument of sale cannot be looked into as a source of title of property conveyed”.

12). In the present case though the learned counsel for the petitioner argued that the proposed sale deed can be received for collateral purpose in the written statement, the petitioners/defendants 1,2 and 6 are setting claim over the suit property under the proposed sale deed which is an unregistered sale deed. Under such circumstances the arguments of the learned counsel for the petitioner that the proposed document as to be received for collateral purpose is not sustainable. It is clear case of the petitioners in the suit that they derived title over the western portion of the suit property under the unregistered sale deed. Hence as per the judgment rendered in the above cited judgement, the proposed unregistered sale deed is not admissible in evidence for any purpose.

13). In the light of above discussion, this court concludes that the proposed sale deed dated 18.04.1980 is inadmissible in evidence and the same cannot be received, but there is no impediment in receiving the adhar card of the 2nd petitioner in evidence. Accordingly this court is inclined to allow this petition partly with regard to the adhar card of the 2nd petitioner alone.

In the result, this petition is partly allowed in respect of the 2nd document filed along with this petition namely adhaar card of the 2nd petitioner and this petition is dismissed in respect of the 1st document filed along with this petition namely the unregistered sale deed dated 18.04.1980. No costs.

Dictated to the Typist and typed by her corrected and pronounced by me in open court this the 02nd day of March, 2024.

Additional District Munsif,
Sankarankovil.

List of witness and documents on both side : Nil

Additional District Munsif,
Sankarankovil.

A.D.M. Court, Sankarankovil.
I.A.No.5/2023 in
O.S.No.154/2013
Draft /Fair Order
Dated : 02.03.2024