

C.R.P.(MD)No.3605 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2026

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)No.3605 of 2025 and
C.M.P.(MD)No.19161 of 2025

R.Surya Narayanan

... Petitioner

-VS.-

1.Karuppaiah
2.R.Jeyaram

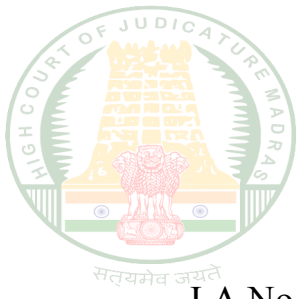
...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order, dated 05.08.2025 passed in I.A.No.06 of 2025 in O.S.No.25 of 2019 on the file of the District Munsif Court, Bodinayakkanur, Theni District by allowing this Civil Revision Petition.

For Petitioner :Mr.C.Ganeshkumar
For Respondents :Ms.A.Ancy Gold

ORDER

The present Civil Revision Petition has been filed challenging the order passed by the learned District Munsif, Bodinayakkanur, Theni District in



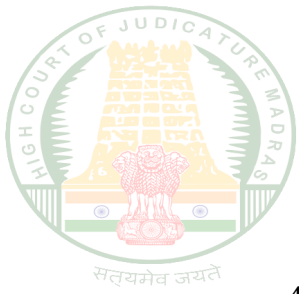
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I.A.No.06 of 2025 in O.S.No.25 of 2019, dated 05.08.2025.

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2.Heard Mr.C.Ganeshkumar, learned Counsel for the Revision Petitioner and Ms.A.Ancy Gold, learned Counsel for the respondents.

3.The first respondent herein, as plaintiff, has filed a suit in O.S.No.25 of 2019 before the District Munsif Court, Bodinayakkanur, Theni District, against the petitioner and the second respondent, for declaration to declare the registered sale deed, dated 03.08.2011 as null and void and for other reliefs. During the pendency of the suit, the first defendant/petitioner herein has filed an application in I.A.No.6 of 2025 under Section 35 of the Indian Stamp Act and Section 151 of CPC seeking permission to pay the deficit stamp duty and penalty amount in respect of the unregistered sale deed, dated 20.12.2000. The learned District Munsif, Bodinayakkanur, Theni District, vide impugned order, dated 05.08.2025, had dismissed the said application on the ground that the document in question cannot be admitted in evidence. Challenging the same, the present Civil Revision Petition has been filed.

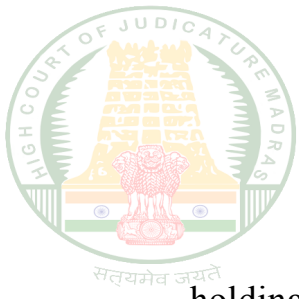


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4.The learned Counsel for the petitioner contended that the learned trial Judge had erred in holding that even if the 1st defendant pays the deficit stamp duty and the penalty thereof, the sale deed in question cannot be received in evidence in view of the clear bar under Section 49 of the Registration Act. He also submitted that the trial Court failed to take into account that exemption in proviso to Section 49 of the Registration Act that an unregistered document affecting immovable property and required by this Court or the Transfer of Property Act, 1882, to be registered, may be received as evidence of a contract in a suit for specific performance. He also submitted that the document to be marked is only for the collateral purpose and that the trial Court without considering the same, has erroneously dismissed the application filed by the petitioner, which needs interference of this Court.

5.The learned Counsel for the respondents submitted that for the very same relief, an application was filed by the petitioner herein in I.A.No.4 of 2021 and the said application was dismissed, which reached finality. She also submitted that now the first defendant has again filed the present application for the very same relief and the trial Court has rightly dismissed the same by



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holding that the unregistered document cannot be taken as evidence and the prayer sought before the Court below seeking permission to pay the deficit stamp duty and penalty can not at all be permitted and the trial Court has rightly dismissed the application filed by the petitioner herein, which needs no interference of this Court and sought for dismissal of this petition.

6.This Court considered the submissions made on either side and perused the materials available on record.

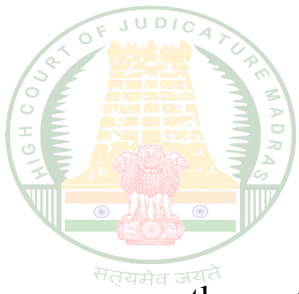
7.It is not in dispute that the first respondent herein has filed a suit for declaration to declare the document, dated 03.08.2011, as null and void and and the petitioner herein has filed an application in I.A.No.6 of 2025 under Section 35 of the Indian Stamp Act and Section 151 of CPC seeking permission to pay the deficit stamp duty and penalty amount in respect of the unregistered sale deed, dated 20.12.2000. The trial Court has dismissed the said application vide impugned order, dated 05.08.2025.



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8.As rightly pointed out by the trial Court, under Section 17(1)(b) of Registration Act read with Section 54 of the Transfer of Property Act, a sale deed relating to immovable property of value exceeding Rs.100/- is compulsorily registrable instrument and Section 49 of the Registration Act, further creates an express bar against receiving such unregistered document in evidence of any transaction affecting immovable property, except for the limited purpose carved out in the proviso. However, the petitioner by invoking Section 35 of the Stamp Act has filed the present application. As rightly pointed out by the trial Court, the proviso to Section 35 of the Indian Stamp Act declares that no instrument chargeable with duty shall be admitted in evidence unless it is duly stamped. Further, Section 35 of the Indian Stamp Act only cures the defect of insufficiency of the stamp duty and it does not and cannot confer validity on an instrument, which the substantive law requires to be registered. Further, the petitioner has already filed an application for the relief to receive the aforesaid document as additional evidence. The said application was dismissed as not pressed. Now, the petitioner has again filed the present application, even though with different prayer, but the ultimate intention is to mark the said document as evidence in the suit. In such view of



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the matter, this Court does not find any irregularity or infirmity in the order passed by the trial Court.

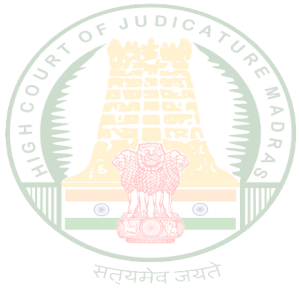
9.In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10.This Court placed its appreciation on the learned Court appointed Legal Aid Counsel for the second respondent, who has rendered his effective submission for arriving at the appropriate decision. The High Court Legal Services Committee attached to this Bench shall pay a sum of Rs.10,000/- in *toto* as remuneration to the learned Court appointed Legal Aid Counsel, who is appearing for the second respondent, within a period of two weeks from the date of receipt of a copy of this order.

10.02.2026

Internet	:Yes/No
NCC	:Yes/No
Index	:Yes/No

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To

- 1.The District Munsif, Bodinayakkanur, Theni District.
- 2.The High Court Legal Services Committee,
Madurai Bench of Madras High Court, Madurai.



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N.SENTHILKUMAR, J.

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