



O.S.A.Nos.60 and 61 of 2021

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2026

CORAM

THE HON'BLE MR JUSTICE P. VELMURUGAN

AND

THE HON'BLE MRS.JUSTICE K. GOVINDARAJAN THILAKAVADI

O.S.A.No.60 and 61 of 2021

Grand Housing (P) Ltd.,
Rep.by its Director J.Vijay Surana
2, Aravamuthu Garden Street,
Egmore, Chennai – 600 008.

.... Appellant
in both O.S.As

Vs

1. M.S.Kamesh Kumar
2. M.S.Sarala (Deceased)
3. M.S.Sathish Kumar
4. M.S.Mukesh Kumar

.... Respondents
in O.S.A.No.60 of 2021

[RR3 & 4 brought on record as L.R's of deceased R2
viz M.S.Sarala vide order of the Court dated 18.09.2025
in C.M.P.No.13513 of 2024 in O.S.A.No.60 of 2021)



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1. M.S.Sarala (Deceased)
2. M.S.Kamesh Kumar
3. M.S.Sathish Kumar
4. M.S.Mukesh Kumar

.... Respondents
in O.S.A.No.61 of 2021

[RR3 & 4 brought on record as L.R's of deceased R1
viz M.S.Sarala vide order of the Court dated 18.09.2025
in C.M.P.No.13514 of 2024 in O.S.A.No.61 of 2021)

Common Prayer : Original Side Appeals filed under Order XXXVI Rule 1 of Madras High Court Original Side Rules read with Clause 15 of the Letters Patent, to set aside the order dated 26.08.2020 made in Application Nos.5387 and 5388 of 2016 in C.S.No.215 of 2016.

For Appellant : Mr.V.Balasubramanian
in both O.S.As

For Respondents : Mr.T.P.Manoharan
Senior Counsel
assisted by Mr.M.M.Kumaravelu
for R1 (in O.S.A.No.60 of 2021)
for R2 (in O.S.A.No.61 of 2021)

Mr.T.Sathyamurthy for R3
(in both O.S.As)
No appearance for R4
(in both O.S.As)



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COMMON JUDGMENT

(Judgment of the Court was delivered by P.Velmurugan, J.)

These intra-Court appeals are directed against the common order dated 26.08.2020 passed by the learned Single Judge of this Court in Application Nos.5387 and 5388 of 2016 in C.S.No.215 of 2016.

2. The appellant is the plaintiff, the first respondent is the first defendant, and the second respondent is the second defendant. Upon the demise of the second defendant, respondents 3 and 4 were brought on record as her legal representatives. For the sake of convenience and clarity, the parties are referred to as per their ranking in C.S.No.215 of 2016.

3. The plaintiff instituted a suit in C.S.No.215 of 2016 seeking recovery of a sum of Rs.55,00,000/-, together with compensation of Rs.25,00,000/- and interest at the rate of 3% per month from the date of the plaint till the date of realization.



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4. Pending the suit, the first defendant filed an application in A.No.5387 of 2016 under Order VII Rule 11 (d) of the Code of Civil Procedure, 1908, seeking rejection of the plaint in C.S.No.215 of 2016 on the ground that the suit is barred by limitation. The second defendant filed an application in A.No.5388 of 2016 under Order VII Rule 11 (a) and (d) of the Code of Civil Procedure, 1908, seeking rejection of the plaint in C.S.No.215 of 2016 on the grounds that the plaint does not disclose a cause of action and that the suit is barred by limitation. After hearing, the learned Single Judge accepted the contentions of the defendants, held that the suit was barred by law under Article 20 of the Schedule to the Limitation Act, 1963, and consequently allowed both applications, thereby rejecting the plaint. Aggrieved by the same, the plaintiff has preferred the present intra-Court appeals.

5. Mr.V.Balasubramanian, learned counsel for the appellant/plaintiff submitted that the plaintiff and the first defendant had entered into a Memorandum of Understanding (MoU) dated 22.06.2012. Under the MoU, the lands claimed by the first defendant as owner or power agent were described in Schedule 'A', while the lands agreed to be procured for the plaintiff were described in Schedule 'B', and towards the said transaction, the plaintiff had



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paid an advance amount of Rs.25,00,000/- by way of cheque dated 22.06.2012 to the first defendant. As per Clause 14 of the MoU, the contract was required to be completed within a period of 90 to 120 days from the date of its execution. However, the first defendant failed to perform his obligations within the stipulated time and also violated Clause 13 of the MoU by executing three sale deeds in favour of his mother, the second defendant, despite having agreed not to create any encumbrance over the Schedule 'A' properties pending completion of the transaction. Though extensive correspondence between the plaintiff and the first defendant, the first defendant subsequently cancelled the MoU on 30.03.2013. In view of the breach of contract committed by the first defendant, the plaintiff was constrained to file the suit for recovery of money.



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6. It was further contended that cause of action arose only upon expiry of the 120th day from the date of the MoU, which fell on 21.10.2012. Therefore, the suit was governed by Article 55 of the Limitation Act, 1963, which prescribes a period of three years for filing a suit for breach of contract, which would extend up to 21.10.2015. Since the Courts were remained closed on account of Dussehra vacation, the suit was preferred on the reopening day, i.e., 26.10.2015, was well within the time prescribed under Section 4 of the Limitation Act, 1963. It was further contended that the learned Single Judge erred in applying Article 20 of the Schedule to the Limitation Act, 1963, overlooking the specific averments in the plaint which disclosed that the suit was founded on breach of the MoU and not merely for recovery of money paid under a Cheque.

7. Per contra, Mr.T.P.Manoharan, learned Senior Counsel appearing for the first respondent/first defendant submitted that the plaintiff has filed the suit for recovery of the amount paid by way of a cheque dated 22.06.2012. Therefore, the limitation commenced from the date of payment, and the suit ought to have been instituted on or before 21.06.2015. However, the plaintiff



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filed the suit only on 26.10.2015, and hence, it was clearly barred by limitation.

The learned Single Judge rightly invoked Article 20 of the Schedule to the Limitation Act, 1963, and rejected the plaint.

8. Mr.T.Sathyamurthy, learned counsel for the third respondent submitted that since the suit is a simple money claim, the cause of action arose directly from the date of payment, rendering the suit beyond the prescribed three-year limitation period calculated from the execution of the MoU, and thus barred by law. It was further contended that the plaint did not disclose any cause of action against the second defendant. The learned Single Judge has rightly rejected the plaint.

9. We have heard the learned counsel on either side and perused the materials available on record.

10. It is not in dispute that the MoU dated 22.06.2012 was entered into between the plaintiff and the first defendant. Clause 14 of the MoU clearly



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mandated that the contract was to be completed within a period of 90 to 120 days. Admittedly, the contract was not completed within the said period. Thereafter, correspondences were exchanged between the parties, and ultimately, the first defendant cancelled the MoU. Alleging breach of contractual obligations by the first defendant, the plaintiff instituted the present suit, which came to be rejected by the learned Single Judge.

11. It is a settled proposition of law that while considering an application under Order VII Rule 11 of the Code of Civil Procedure, 1908, the Court is required to confine itself to the averments made in the plaint and the documents relied upon therein, and not the defence raised by the defendants.

12. A reading of the plaint reveals that the plaintiff has disclosed a clear cause of action against the defendants. Furthermore, on a perusal of the materials on record and the order passed by the learned Single Judge, we find that the issue of limitation in the present case involves a mixed question of fact and law. Therefore it cannot be conclusively held at this stage that the suit is barred by law under Order VII Rule 11 of the Code of Civil Procedure, 1908.



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Whether the limitation commenced from the date of execution of the MoU, upon expiry of the stipulated period of 120 days, or from the date of cancellation of the MoU by the first defendant, are all matters that can be effectively adjudicated only after a full-fledged trial, and not at this preliminary stage. Therefore, we are of the considered view that the order of the learned Single Judge warrants interference.

13. Accordingly, the order passed by the learned Single Judge is set aside, and the suit in C.S.No.215 of 2016 is restored to the file of the Court. Since the pleadings are already completed, the learned Single Judge is requested to proceed with the trial and dispose of the suit on merits and in accordance with law.

14. In the result, these intra-Court appeals are allowed. There shall be no order as to costs.

(P.V.,J.) (K.G.T.,J.)
13.07.2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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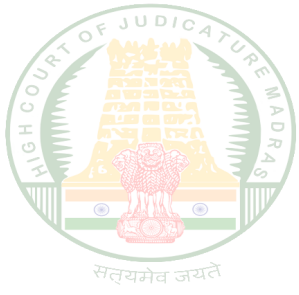
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**P.VELMURUGAN, J.
AND
K.GOVINDARAJAN THILAKAVADI, J.**

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