

## IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(PD).No.983 of 2015andM.P.No.1 of 2015

Gunasekaran

....

Petitioner

Vs.

Periyasamy

....

Respondent

**PRAYER :** Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decreetal order dated 16.10.2014 in I.A.No.326 of 2014 in O.S.No.2 of 2014 on the file of the I Additional District Court, Salem.

For Petitioner : Mr.D.Shivakumaran

**ORDER**

This civil revision petition is directed against the order dated 16.10.2014 passed by the I Additional District Court, Salem, in I.A.No.326 of 2014 in O.S.No.2 of 2014.

2. The first defendant in O.S.No.2 of 2014 on the file of the learned First Additional District Judge, Salem, is the petitioner in this civil revision petition. The respondent instituted the suit against the petitioner for specific performance of the agreement dated 23.09.2012.

3. The case of the plaintiff is that the first defendant /petitioner had agreed to sell the suit property for a sum of Rs.10,50,000/- and on the date of agreement, he received a sum of Rs.8,50,000/- towards advance and agreeing to execute the sale deed within a period of 18 months.

4. The plaintiff has averred in the plaint that on 01.12.2013, the first defendant received a sum of Rs.50,000/- from and out of the balance sale consideration. But, he has not come forward to perform his obligation. The petitioner filed I.A.No.326 of 2014 under Order 7 Rule 11 and Section 151 C.P.C contending that the suit is a premature one and there is no cause of action against the defendant on the date of filing of the suit.

4. The main contention of the petitioner is that as per the agreement of sale dated 23.09.2012, the first defendant had time to execute the sale deed till 23.03.2014. However, the suit was filed on 02.01.2014 i.e. before three months of the expiry of the limitation period. The application was opposed by the plaintiff. The trial Court dismissed the application. Aggrieved by the order, the present civil revision petition is filed.

5. Mr.D.Shivakumaran, learned counsel for the petitioner submitted that the plaintiff did not have cause of action to file the suit on 02.01.2014. The trial Court without considering the fact, rejected the application mechanically. I am unable to agree with the contention of the learned counsel for the petitioner.

6. It is seen that the petitioner has filed his written statement admitting the execution of the agreement of sale dated 23.09.2012. As per terms and conditions of the agreement, the sale deed has to be executed within 18 months. There is no stipulation that the suit can be instituted after expiry of the limitation. I do not find any illegality or irregularity in the impugned order.

In the result, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

05.03.2015

Index : Yes/No  
Internet: Yes/No  
sms

To  
The I Additional District Court, Salem.

**K.KALYANASUNDARAM,J.**

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