

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAIWAMY

C.R.P.(NPD).Nos.2287 & 2288 of 2016

C.Nallamuthu

... Petitioner in both C.R.Ps

Vs.

D.Durga Devi

... Respondent in both C.R.Ps

Civil Revision Petitions filed under Article 227 of the Constitution of India against the rejection of plaint on limitation point in un-numbered O.S.(SR).Nos.41305 & 41306 of 2015 dated 25.09.2015 on the file of the I Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.N.Edwin Raj
(in both C.R.P.s)

COMMON ORDER

Challenging the order passed in the un-numbered suits in O.S.(SR).Nos.41305 & 41306 of 2015 on the file of the I Assistant Judge, City Civil Court, Chennai, the plaintiff has filed the above Civil Revision Petitions.

2.The plaintiff filed the suits in O.S.(SR).Nos.41305 & 41306 of 2015 for recovery of money based on two pro-notes dated 04.10.2009 alleged to have been executed by the defendant. The suits were filed before the trial Court on 01.09.2015. The trial Court rejected the complaints on the ground that the suits were filed after the period of limitation.

3.On a reading of the cause of action paragraph in the complaints, it could be seen that the suits were filed based on two pro-notes dated 04.10.2009 and that the plaintiff issued a legal notice on 04.09.2012 calling upon the defendant to re-pay the loan amount. Further, in the cause of action paragraph, it has been stated that the defendant had received the notices dated 04.09.2012 on 06.09.2012.

4.The learned counsel appearing for the petitioner submitted that since the defendant had received the notices on 06.09.2012, the period of limitation should be calculated only from 06.09.2012.

5.It is settled position that unless the debts were acknowledged by the defendant, the period of limitation prescribed under the Limitation Act cannot be extended. Mere receiving of legal notice sent by the plaintiff will not extend the period of limitation.

6.The learned counsel for the petitioner further submitted that the suits were filed based on the Loan Agreement dated 04.10.2009 and when no time was prescribed under the Agreement, the suits filed by the plaintiff on 01.09.2015 is within time.

7.However, on a reading of the complaints, it is clear that the suits have been filed only based on the pro-notes and not based on the alleged Loan Agreement. Since the suits have been filed after three years from the date of execution of the pro-notes dated 04.10.2009, the trial Court has rightly rejected the complaints on the ground of limitation.

8.I do not find any reason to interfere with the orders passed by the trial Court. The Civil Revision Petitions are devoid of merits and are liable to be dismissed. Accordingly, the Civil Revision Petitions are dismissed. No costs.

Index : No
Internet : Yes
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22.08.2016

M.DURAIWAMY,J.
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To

The I Assistant Judge,
City Civil Court,
Chennai.

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