



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 13.07.2018

Delivered on : 21.08.2018

CORAM

WEB COPY

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

C.R.P.(MD) (PD) Nos.2482, 2485 and 2486 of 2017
and

C.M.P.(MD) Nos.11719 to 11721 of 2017

1.M.Meiyappan

2.M.Subramanian @ Subbaiah

3.M.Ramanathan

4.M.Adaikkappan

5.M.Palaniappan

.. Petitioners in all the CRPs

vs.

C.Mariappan

.. Respondent in CRP (MD) No.2482/2017

1.N.Sivanandham (died)

2.Baskar

3.Malathi

4.Tamil Selvam

5.Murugan

.. Respondents in CRP (MD) No.2485/2017

(R2 to R5 are brought on records as LR's of
deceased sole Respondent, vide court order
dated 05.07.2018 made in CMP.No.5885/18
in CRP (MD) No.2485 of 2017)

1.N.Sadasivam

2.N.Nithiyanandham

3.N.Vijayakumar

.. Respondents in CRP (MD) No.2486/2017

Common Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India, to strike off the plaint in O.S.Nos.62, 63 and 61 of 2017 respectively on the file of the Principal District Munsif Court, Thanjavur.



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(In both the CRPs)

For Petitioners
For Respondents

: Mr.C.Bharathi
: Mr.M.P.Senthil

for sole respondent in
CRP.No.2482 of 2017

for R1 to R3 in CRP.No.2486
of 2017

R1 - Died (in CRP.No.2485 of
2017)

for R2 to R5 in CRP.No.2485
of 2017

COMMON ORDER

All these three Civil Revision Petitions in CRP(MD)Nos.2482, 2485 and 2486 of 2017 raise from three Suits for Specific Performance and Permanent Injunction in O.S.Nos.61, 62 and 63 of 2017 respectively on the file of learned Principal District Munsif, Thanjavur, seeking for a Decree of Specific Performance and Injunction as against the Revision petitioners and few others on the basis of an Agreement of Sale dated 07.03.1977 made in respect of one and the same property.

2.As all the above Civil Revision Petitions encompass same Sale Agreement dated 07.03.1977 and the relief sought, grounds of Revision and Defense are identical and that revision petitioners and suit properties involved are one and the same, this Court heard all the above Civil Revision Petitions together and are hereby disposed by a Common Order as following:

The defendants in O.S.Nos.61, 62 and 63 of 2017 on the file of learned Principal District Munsif, Thanjavur are the petitioners herein and by way of these Civil Revision Petitions seeking to struck down the above suits filed by the respondents/plaintiffs in O.S.Nos.61, 62 and 63 of 2017 as an abuse of process of court and law and barred by law.

3.On perusal of the case records it is seen that it is the case of the Respondents/ Plaintiffs that the suit property belong to the defendants by way of a partition deed dated 25.11.1975 through which the suit property came to be allotted to the defendants share during their minority represented through the defendants' mother Meiyammai Achi as Guardian.

4.When the Revision petitioners were minors, the suit property was leased out by their mother on behalf of the Revision petitioners and later on behalf and representing the Revision petitioners the said Meiyammai agreed to sell the suit property by an unregistered sale agreement dated 07.03.1977 fixing the sale consideration at the rate of Rs.15/- per kuzhi and thus totaling for Rs.4,500/- towards the suit property. Thereupon the revision



petitioners continues to be in possession and enjoyment of the suit property till date.

5. It is their further case that nevertheless the time was fixed for performance of contract as three months from the date of agreement, the same was not intended to be the essence of the contract. In the meantime Revision petitioners' father namely Mr. Meiyappan Chettiyar vide his letters dated 16.06.1986 and 24.11.1996 demanded the balance sale consideration in the year 1997 and demanded execution of Sale Deed. While so, the respondents' father died and despite the readiness and willingness of the respondents, the revision petitioners' evaded to complete the sale and the revision petitioners attempted to sell the suit property to third parties suppressing the sale agreement hence legal notices were caused by the Respondents in the month of December 2016 calling upon the revision petitioners to execute the sale deed by receiving balance sale consideration in accordance with their Agreement dated 07.03.1977. However as there was no positive action, the respondents filed the above suits in O.S.Nos. 61, 62 and 63 of 2017 on the file of Principal District Munsif Thanjavur in the year 2017 for specific performance of sale agreement dated 07.03.1977 and Permanent Injunction.

6. Aggrieved over the filing of the above suits, the revision petitioners have filed these Civil Revision Petitions seeking to struck off the plaint as not maintainable and legally barred on the ground of limitation, further lacking cause of Action and devoid of legally enforceable right on the basis of an alleged sale agreement dated 07.03.1977.

7. I heard Mr. C. Bharathi, learned counsel for the petitioner in all the C.R.P.s and Mr. M. P. Senthil, learned counsel for the sole respondent in CRP (MD) No. 2482 of 2017 and respondents 1 to 3 in CRP (MD) No. 2486 of 2017 and respondents 2 to 5 in CRP (MD) No. 2485 of 2017 and perused the records.

8. The submissions of the Learned Counsel for the Revision petitioners in brief as follows:

i) A suit for the relief of specific performance of execution sale deed on the basis of alleged sale agreement dated 07.03.1977 is not at all maintainable both on law and facts that the suit is barred by limitation.

ii) Even for the sake of argument if the sale agreement is assumed to be true, the relief of specific performance ought to have claimed within 3 years from the date fixed for completion of contract as per Article 54 of the Limitation Act, 1963. Thus the suit is barred by Limitation.

iii) Even according to the version of the respondents the time fixed for completion of agreement was 07.06.1977 and hence the suit in any event must have been filed on or before 06.06.1980.



iv) The revision petitioners are in possession and hence they have no cause of action as to the relief of permanent injunction and the same is also legally barred.

v) The respondents do not have any cause of action as the Plaintiff states that agreement was entered into between Meiyammai who was not the owner of the property and thus the alleged execution of sale agreement in respect of Revision petitioners' property itself is without any title.

Accordingly the Learned Counsel for the Revision petitioners seeks for Striking off the plaint as abuse of process of Law and legally barred.

9. Per Contra, the submissions of the Learned Counsel for the respondents in brief as follows:

I) The Revision petitions are not maintainable as the petitioners even if aggrieved over the filing of Suit alleging Lack of cause of action or on plea of limitation the same should be availed invoking Order 7, Rule 11 of C.P.C. seeking to reject the plaint and in any event they cannot seek for a remedy directly under Article 227 of the Constitution of India.

II) The plea of limitation, since being a mixed question of Law and Fact cannot be gone into in this Civil Revision under Article 227 of the Constitution of India and the same has to be gone into as a preliminary issue.

III) The core issue which has been raised in the above revision, as if the Suits have been laid after nearly a period of 40 years and the suit is barred by limitations to be decided in the suit after a full-fledged trial.

IV) The contention of the Receiver petitioners as if the suit is barred by limitation vide Article 54 of the Limitation Act and the same cannot overlook the second relief in the suit for permanent injunction, especially when claiming the benefit provided under Section 53-A of the Transfer of Property Act.

V) The plea of the revision petitioners can be gone through by way of trial adducing oral and documentary evidence.

VI) The suit properties were alienated to third parties and the petitioners have no right over the property and such third parties have made applications to implead them in the Main Suit, hence the suit cannot be struck off.

10. The Learned Counsel for the respondents relied upon the following decisions in support of his contention, the nature of relevance and reliance are put in brief hereunder:

1. Balsaria Construction (p) Ltd Vs Hanuman Seva Trust, reported in 2006 (5) SCC 658 - The Hon'ble Apex Court holding that unless plaint show ex-facie that it is barred by time / limitation, it cannot be rejected.



2.Rev.RV.S.S. Vethaynayagam & Ors Vs A.D.J.C.Manohar and Others reported in 2010(3) TNCJ 331 (Mad)(MB) - The petitioners cannot approach this Court as they have an alternate efficacious remedy under Order VII, Rule 11 CPC.

3.A.R.Suresh&Ors Vs Tek Smart Group, reported 2016(2)MWN (Civil) 538- While a remedy under Order VII, Rule 11 CPC for rejection of plaint, revision filed by the revision petitioner is devoid of merits and adopting of short cut method to strike off the plaint must be deprecated.

4. Sarala Vasu Vs Belair Corporation Private Ltd reported in 2015(4) CTC 747- Plea of limitation involves mixed question of law and fact and therefore the plaint cannot be struck down without a Trial.

11.Contending so, he summed up praying for dismissal of the Revision petitions as devoid of merits.

12.By way of reply, the Learned Counsel for the revision petitioners relied on the following decisions and the nature of relevance and reliance are put in brief hereunder:

- I) [Surya Dev Rai v. Ram Chander Rai](#), (2003) 6 SCC 675, the decision of the Hon'ble Apex Court holding the significance and eminence of power under Article 227 of Constitution of India to curb abuse of process of law and the relevant portion is extracted here under:

"22. ... It is well settled that the power of superintendence so conferred on the High Court is administrative as well as judicial, and is capable of being invoked at the instance of any person aggrieved or may even be exercised suomotu. The paramount consideration behind vesting such wide power of superintendence in the High Court is paving the path of justice and removing any obstacles therein. The power under [Article 227](#) is wider than the one conferred on the High Court by [Article 226](#) in the sense that the power of superintendence is not subject to those technicalities of procedure or traditional fetters which are to be found in certiorari jurisdiction. Else the parameters invoking the exercise of power are almost similar.

25. ... In exercise of supervisory jurisdiction, the High Court may not only quash or set aside the impugned proceedings, judgment or order but it may also make such directions as the facts and circumstances of the case may warrant, maybe, by way of guiding the inferior court or tribunal as to the manner in which it would now proceed further or afresh as commended to or guided by the High Court. In appropriate cases the High Court, while exercising supervisory jurisdiction, may substitute such a decision of its own in place of the impugned decision, as the inferior court or tribunal should have made. Lastly, the jurisdiction under [Article 226](#) of the Constitution is



capable of being exercised on a prayer made by or on behalf of the party aggrieved; the supervisory jurisdiction is capable of being exercised suomotu as well."

ii) Decision of this Court in *Renuka Devi Vs D.Manoharan*, reported in 1997(III) CTC 567, holding that Revision under Article 227 by striking down the plaint as abuse of process of Law is Lawful and needful.

iii) Decision of this Court in *Southern and Rajamani Transport Private Limited v. R.Srinivasan*, reported in 2010 (4) C.T.C. 690 having considered the power of this Court exercisable under [Article 227](#) of the Constitution of India, holding that the supervisory power has to be invoked to prevent miscarriage of justice and grave injustice to a party, besides to prevent an abuse of process of law. Further it was held that such power is in addition to the revisional jurisdiction.

13.At first instance, before going into factual aspect of the case, this Court wish to decide as to the maintainability of these Revision Petitions under Article 227 of the Constitution of India to struck down the plaint, without filing an application under Order VII, Rule 11 CPC before the Trial Court.

14.In this context it would be relevant to look into an earlier decision of this Court in the matter of [S.R.Nanda Kishore v.Body of Villagers](#) reported in (2013) 8 MLJ585 enunciating that wherever there is abuse of process of Court, either the Trial Court or this Court can straight away strike out the plaint without even an application under Order 7, Rule 11 CPC.

15.As well it would be relevant to look into the decision of this Court made in matter of [Southern and Rajamani Transport Private Limited v. R.Srinivasan](#), reported in 2010 (4) CTC 690, holding that an alternative remedy under CPC is not a bar to invoke the jurisdiction under [Article 227](#) of the Constitution of India.

16.Thus this Court finds that the contention of the Learned Counsel for the respondents that petitioners cannot approach this Court as they have an alternate efficacious remedy under Order VII, Rule 11 CPC do not have much force and thus these revision petitions are maintainable under Article 227 of the Constitution of India.

17.Coming to the other facet of claims of Revision petitioners that the plaint is liable to be struck off for want of cause of action and the suit is barred by limitation, regardless of such arguments made by the Learned Counsel for revision petitioners fit to go by the averments of the plaint and contention of the respondents set up in the plaint as a whole.



18. According to the respondents / plaintiffs, the revision petitioners / defendants are the owners of the suit properties, as such vide a partition deed dated 25.11.1975 the suit property came to be allotted to the defendants who were then minors represented by their mother Meiyammai Achi as Guardian.

19. During the life time of the revision petitioners' mother, suit property was leased out by Meiyammai Achi. Subsequently for and on behalf of the then minor revision petitioners by fixing the sale consideration at the rate of Rs.15/- per kuzhi towards the suit property an unregistered sale agreement dated 07.03.1977 was entered by the said Meiyammai as vendor and respondents' father as vendee. The time for performance of contract was fixed as three months from the date of agreement. It is significant to see that there is a specific clause as to the date fixed for execution of sale deed, which reflects as 07.06.1977. It is further seen that the unregistered agreement also contain a rider clause that if on or before 07.06.1977, the respondents' father fail to get executed the Sale deed, he would be disentitled for refund of advance and the said amount will stand forfeited.

20. Things being as such, the father of the revision petitioners namely Mr. Meiyappan Chettiyar through his letters dated 16.06.1986 and 24.11.1996 demanded the balance sale consideration in the year 1986 and 1997 calling upon the respondents to execute the sale deed. The respondents were always ready and willing to get the sale deed executed, but by stating reasons in one way or in another, the respondents evaded to execute the sale deed, hence he issued the suit notice in the year 2016 on 24.12.2016 and as the same was replied with a Notice dated 07.01.2017 by the revision petitioners rejecting the respondents' claim, the suit came to be filed by the respondents on 03.03.2017 for specific performance and Permanent injunction.

21. Thus setting up cause of action for their suit as 07.03.1977 the date of agreement, 16.06.1986 and 24.11.1996 the date of letters by the revision petitioners' father Meiyappan Chettiar and lastly 24.12.2016 the date of issuance of Legal Notice issued by the respondents, the respondents have framed their suits.

22. Now this Court has to see whether the above suits for specific performance based on an agreement of the year 1977 is barred by limitation and whether the respondents have real Cause of action to their suits.

23. Cause of Action

The term "Real cause of action" used above refer to an actual, concrete, existing cause of action and do not refer to time off claim, illusionary and invented for the purpose of suit by clever draft which are fictitiously and artificially projected as right to sue.



24. Admittedly in the case on hand as per the plaint averments and its supporting documents the Suit agreement sought to be enforced is of the year 1977. Therefore there could be no doubt a suit to enforce the agreement ought to have been filed within 3 years as contemplated in Article 54 of the Limitation Act, 1963. It is not done so in the instant case.

25. Secondly the cause of action to the respondents arose on 16.06.1986 and 24.11.1996 when the revision petitioners' father Meiyappan Chettiar demanded execution of sale demanding balance sale consideration. In fact this Court is clueless as to how the above cause of action was set up, since the respondents father was never a party to the suit agreement. Therefore this Court do not find any value in the alleged cause of action. In yet another angle, even for the sake of argument it is taken as bonofide and maintainable, the suit has to be filed within next three years i.e either within 15.06.1989 or within 23.11.1999 as the case may be. However, the suits were not found laid within the said period.

26. Coming to the ultimate cause of action set up by the respondents, it is a Suit notice of the year 2016 demanding enforcement of the sale agreement of the year 1977. Certainly this Court is unable to appreciate the said conduct and as well as the cause of action projected, since it was a mere notice served demanding enforcement of a right which was already time barred as early as 1980 if the original agreement taken into account or by 16.06.1986 and 24.11.1996 respectively if alleged notices of the revision petitioners' father were taken into account.

27. Whereas the present suit is being filed on 01.03.2017 after a lapse of 40 years. Absolutely the plaint is silent as to the steps taken by them to enforce the agreement. More so, the respondents have not even in a position to cite a correspondence of communication made at their end on all these 40 years, except one letter of the year 2016. The said conduct of the respondents being silent over about 40 years is self-explanatory as to extinguishment of their right to sue as time barred and hit by limitation.

28. In as much as the alleged third cause of action projected by the respondents it would be useful to refer to the decision of the Hon'ble Apex Court in the matter of I.T.C. Limited Vs. Debts Recovery Appellate Tribunal and Others : 1998(2) SCC 70 holding as under:-

"16. The question is whether a real cause of action has been set out in the plaint or something purely illusory has been stated with a view to get out of Order 7 Rule 11 CPC. Clever drafting creating illusions of cause of action are not permitted in law and a clear right to sue should be shown in the plaint."

And it is settled law that in cases involving illusory cause of action, the role of the Court is to nip it in the bud.



It is not the case of the respondents that they have extended or renewed their agreement of sale in so far as the maintainability of suit on the ground of limitation. It would be useful to refer to a decision of the Hon'ble Apex Court made in the matter of Hardesh Ores Pvt. Ltd vs M/S. Hede And Company reported in (2007) 5 SCC 614 holding as following that

"32. We are of the view that the respondent is right in contending that enforcement of the negative covenants presupposes the existence of a subsisting agreement. As noticed earlier, the law is well settled that the renewal of an agreement or lease requires execution of a document in accordance with law evidencing the renewal. The grant of renewal is also a fresh grant. In the instant case, the appellant-plaintiff did exercise their option and claimed renewal. The respondents denied their right to claim renewal in express terms and also unequivocally stated that the agreement did not stand renewed as contended by the appellants. Having regard to these facts it must be held that a cause of action accrued to the appellant- plaintiff when their right of renewal was denied by the respondents. This happened in December, 2001 and, therefore, within three years from that date they ought to have taken appropriate proceedings to get their right of renewal declared and enforced by a court of law and/or to get a declaration that the agreement stood renewed for a further period of 5 years upon the appellants' exercising their option to claim renewal under the original agreement. The appellants-plaintiffs have failed to do so. However, the plaint proceeds on the assumption that the original agreement stood renewed including the negative covenants contained in clauses 15 and 20 of the original agreement which authorised only the appellants to extract ore from the mine with an obligation cast on the respondents-defendants not to interfere with the enjoyment of their rights under the agreement. In the facts of this case, in the suit prayer for injunction based on negative covenants could not be asked for unless it was first established that the agreement continued to subsist. The use of the words "During the subsistence of this agreement" in clause 15, and "during the pendency of this indenture" in clause 20 of the agreement is significant. In the absence of a document renewing the original agreement for a further period of 5 years and in the absence of any declaration from a court of law that the original agreement stood renewed automatically upon the appellants exercising their option for grant of renewal, as is the case of the appellants, they cannot be granted relief of injunction, as prayed for in the suit, for the simple reason that there is no subsisting agreement evidenced by a written document or declared by a Court. If there is no such agreement, there is no question



of enforcing clauses 15 and 20 thereof. The appellants ought to have prayed for a declaration that their agreement stood renewed automatically on exercise of option for renewal and only on that basis they could have sought an injunction restraining the respondents from interfering with their possession and operation. Having not done so, they cannot be permitted to camouflage the real issue and claim an order of injunction without establishing the subsistence of a valid agreement. In the instant suit as well they could have sought a declaration that the agreement stood renewed automatically but such a claim would have been barred by limitation since more than 3 years had elapsed after a categorical denial of their right claiming renewal or automatic renewal by the respondents- defendants.

33. Mr. Nariman contended that this case was governed not by [Article 58](#) of the [Limitation Act](#) but, if at all, by [Article 113](#) thereof because there is no specific article provided for enforcement of positive or negative covenants. We shall assume that he is right in contending that [Article 113](#) may apply where enforcement of a positive or negative covenant is sought in a suit for injunction. However, in this case we have found that the real foundation for the suit was that the earlier agreement stood renewed automatically containing the same terms and conditions as in the original agreement including the negative covenants. There is neither a document to prove that the agreement stood renewed nor is there a declaration by a court that the agreement stood renewed automatically on exercise of option for renewal by the appellants. The basis for claiming the relief of injunction, namely, a subsisting renewed agreement did not exist in fact. In its absence, no relief as prayed for in the suit could be granted by the clever device of filing a suit for injunction, without claiming a declaration as to their subsisting rights under a renewed agreement, which is apparently barred by limitation.

34. We are, therefore, satisfied that the Trial Court as well as the High Court were justified in holding that the plaint deserved to be rejected under Order VII Rule 11 CPC since the suit appeared from the statements in the plaint to be barred by the law of limitation."

29. Further in this regard it would also be useful to refer to the decision of this Court made in *N.A.Chinnasamy vs S.Vellingirathan* in CRP.No.923 of 2013 holding as following that

"50. The other two points under Order VII Rule 1 CPC are relating to no cause of action for filing the suit and the statutory bar under the [Limitation Act](#). Apart from the said grounds, if it is also established that the filing



of the suit itself is an abuse of process of law and the Court, hence, invoking [Article 227](#) of the Constitution of India, the plaint could be struck off, to meet the ends of justice.

51. In the instant case, a perusal of the averments made in the cause of action, para of the plaint by the respondent / plaintiff could not be construed as cause of action, in the eye of law, to maintain the suit, for the relief sought for in the plaint. Having executed the registered sale deed, 12 years after the execution of the sale deed, the respondent / plaintiff has come forward with the present suit, by raising an unsustainable plea, that on the date of executing the deed, he was thinking that it was a mortgage deed and not a sale deed. 12 years after executing the deed, he has raised such an unreasonable plea, hence, such an abuse must be deprecated. After executing the sale deed before the Sub-Registrar's Office, as per the earlier registered agreement for sale, it is not open to the respondent / plaintiff to raise a self contradictory plea stating that he had signed in the Sub-Registrar's Office in various papers, 12 years later in the last week of June 2012, he came to know that it was a sale deed, though he was thinking that it was only a mortgage deed, for which he received a loan of Rs.2,00,000/-, out of which, Rs.1,00,000/- and interest was paid without getting any receipt or acknowledgement, saying that the petitioners / defendants were not in the habit of issuing receipt. Such unsustainable, frivolous plea against the registered document executed by him would show that the respondent / plaintiff has not come forward with clean hands and also spoken the truth in the plaint. The self contradictory version of the respondent / plaintiff, which is against law, cannot be construed as cause of action to maintain the suit. In a case of vexatious litigation, it would be the solemn duty of this Court to invoke [Article 227](#) of the Constitution to struck off the plaint, which contains improper and unreasonable pleadings of the respondent / plaintiff, which could not be accepted by any reasonable prudent man. The suit has been filed after 12 years, after executing the sale deed is hopelessly barred by limitation and the respondent is not entitled to raise a plea of date of knowledge, as he was party to the sale deed.

52. It cannot be disputed that plaint could be struck off only in the rarest of cases, when there is clear abuse of process of law and Court, however, the same has to be decided only based on the pleadings and the admission made by the plaintiff and not based on the written statement and when the court comes to a conclusion that there is no possibility for the plaintiff to succeed and

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52. It cannot be disputed that plaint could be struck off only in the rarest of cases, when there is clear abuse of process of law and Court, however, the same has to be decided only based on the pleadings and the admission made by the plaintiff and not based on the written statement and when the court comes to a conclusion that there is no possibility for the plaintiff to succeed and

53. In such a suit is also an abuse of process of law and the Court. In this Revision, all these aspects are available against the respondent / plaintiff, hence, this



Court has no hesitation to invoke [Article 227](#) of the Constitution and struck off the plaint, to meet the ends of justice.

53. Having considered the plaint averments and the admitted documents, copy of the notice issued by the respondent / plaintiff and the other public document, namely G.O.(2D) No.19, Municipal Administration and Water Supply (T.P.II) Department, dated 25.03.2010, it has been made crystal clear that the suit itself is a clear abuse of process of law and court. There is no legally acceptable cause of action available to the respondent / plaintiff, for the relief sought for in the plaint, the suit is also barred by statute, namely the [Limitation Act](#), hence, this Court is of the view that there is no chance of the suit succeeding and accordingly, to meet the ends of justice and to prevent abuse of process of court, this revision has to be allowed and pass orders to struck off the plaint, invoking [Article 227](#) of the Constitution."

30.It is noteworthy that in an identical situation as much as relief of Specific performance and Injunction was sought in a case involving similar set of facts in the matter of N.Ravindran Vs V.Ramachandran reported in 2011 (3) CTC 153, a Hon'ble Division bench of this Court has held that where the plaintiff seek for specific performance of an agreement of sale, the claim for permanent injunction is strongly linked with the prayer of specific performance and the other reliefs thereto are integrally connected with the main relief of specific performance and that if the main relief of specific performance is barred by limitation, the plaintiff cannot maintain the suit in respect of other reliefs dehors the suit for specific performance. Whereas this Court finds that the only difference as to the above suit dealt by the Hon'ble Division bench and the subject suit herein is that the former was based on an Oral agreement and the later was on a Written agreement. It is needless to say that Law do not make much difference over an Oral and written agreement.

31.Ultimately this Court would like to emphasis a decision of the Hon'ble Apex Court in the matter of "[N.V. Srinivasa Murthy v. Mariyamma](#) reported in (2005) 5 SCC 548. He relied on the following passages found in paragraphs 16 and 17 of the said judgment, which is as follows:

"16. The High Court does not seem to be right in rejecting the plaint on the ground that it does not disclose any cause of action. In our view, the trial court was right in coming to the conclusion that accepting all averments in the plaint, the suit seems to be barred by limitation. On critical examination of the plaint as discussed by us above, the suit seems to be clearly barred on the facts stated in the plaint itself. The suit as framed is prima facie barred by the law of limitation,



provisions of the Specific Relief Act as also under Order 2 Rule 2 of the Code of Civil Procedure.

17. This is a fit case not only for rejecting the plaint but imposing exemplary costs on the appellant on the observations of this Court in the case of T. Arivandandam v. T.V. Satyapal: (SCC p.468) The trial court must remember that if on a meaningful not formal reading of the plaint it is manifestly vexatious and meritless in the sense of not disclosing a clear right to sue, it should exercise its power under Order 7 Rule 11 CPC taking care to see that the ground mentioned therein is fulfilled. If clever drafting has created the illusion of a cause of action, the court must nip it in the bud at the first hearing by examining the party searchingly under Order 10 CPC. An activist judge is the answer to irresponsible law suits. The trial courts would insist imperatively on examining the party at the first hearing so that bogus litigation can be shot down at the earliest stage. The Penal Code is also resourceful enough to meet such men (Chapter 11) and must be triggered against them."

32. All the above decisions would undisputedly declare that if a suit lacks cause of action or if the same is illusory invented to overcome the Law of Limitation or Order 7, Rule 11 CPC, the same is liable to be forbidden and such plaints are to be struck off.

33. Again it would be relevant to cite yet another decision in RamiahAsari v. Kurshad Begaum, reported in 1999 (I) CTC 600, wherein this Court relying on the decision of the Hon'ble Apex Court made in K.K.Modi v. K.N.Modi, (1998) 3 SCC 573, held that the Court should invoke its inherent power to strike off plaint when it comes to the conclusion that the claim has been made only for collateral purpose or is spurious one or of frivolous nature or improper use of machinery of court or its continued prosecution results in vexatious litigation.

34. At the same time this Court makes clear that it cannot have any conflict over the Legal proposition that the issue of limitation is both a question of Law and fact to be established in the course of Trial, however this peculiar case do not fall under the said category to undergo full Trial, as the reading of the plaint as whole and the conduct of the respondents in filing a suit for specific performance after 40 years by having reliance upon a sale agreement of the year 1977 without even a correspondence of communication demanding execution of sale deed.

35.If Trial of such suits are allowed or endorsed by this Court, the same would defeat the purpose of Law of Limitation and will certainly be contrary to the Law of Land declared by the Hon'ble Apex Court, holding in the matter of [N.Balakrishnan v. M.Krishna Murthy](#), reported in 1998 (7) SCC that "Unending period of launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy."



36. Thus for the forgoing reasons, I have no hesitation to hold that the suits on hand are barred by Limitation and suffers want of cause of action and thus if the trial of the above suits are allowed the same would be an abuse of process of Law.

37. Accordingly invoking power under Article 227 of Constitution of India, all these Civil Revision Petitions are allowed and the suits in O.S.Nos.61, 62 and 63 of 2017 respectively on the file of the learned Principal District Munsif at Thanjavur are hereby struck down as abuse of process of law. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-II)

To

The Principal District Munsif,
Thanjavur.

+3CC to Mr.C,BHARATHI, Advocate, SR.Nos.79609,79610,79611
+1CC to Mr.M.P.SENTHIL, Advocate, SR.No.79642

C.R.P. (MD) (PD) Nos.2482, 2485 and 2486 of 2017 and
C.M.P. (MD) Nos.11719 to 11721 of 2017
21.08.2018

VSV
ES/RP/SAR 2/03.09.2018/15P/6C