

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE. N.SATHISH KUMAR

CRP NPD No.3503 OF 2008

The Lakshmi Vilas Bank Limited,
Divisional Office, No.180,
First Floor, Aarthi Chambers,
Anna Salai, Chennai-6
represented by its
Assistant General Manager.

... Revision Petitioner

Vs.

1. Sundari Bai
2. Shilpa Krishna
3. Sharon Krishna

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the orders dated 27.06.2007 passed in S.R.No.10518 of 2006 by the III Assistant Judge, Civil Civil Court, Chennai.

For Revision Petitioner : Mr.A.V.Radhakrishnan

For respondent No.2 and 3 : Mr.V.Ragavachari

ORDER

This revision petition has been filed against the orders passed by the trial court in S.R.No.10518 of 2006.

2. The revision petitioner is the plaintiff in the original suit and he filed the suit for recovery of advance amount of Rs.3,05,727.50p from the defendant. The trial court before numbering the suit, dismissed the suit on the ground that the suit was not filed within the period of limitation. Against which, the plaintiff/revision petitioner came up with the present revision petition.

3. While dismissing the suit at SR stage, the trial court held that the suit was filed for getting compensation. But in fact, the plaint pleadings indicated that the suit has been filed for recovery of advance amount from the defendant.

4. It is the contention of the revision petitioner/plaintiff that they vacated the first floor premises on 28.02.2003 and second floor premises on 29.09.2003. Hence, the suit has been filed well within the period of three years from 29.09.2003.

5. This court called for the records from the trial court and found that the plaint has been filed on 27.02.2006, which is well within the period of 3 years from the date of vacation of the suit property on 28.02.2003 or on 29.09.2003. Whereas, the trial court dismissed the suit on the ground that the suit was not filed within a period of 3 years, without any basis. Therefore, the order of the trial court is liable to be interfered with and accordingly, the same is set aside.

6. In the result,

(i) The Civil Revision petition is allowed. No costs.

(ii) The order of trial court is set aside.

(iii) The trial court is directed to number the suit and give opportunity to the defendants to file their respective written statement and proceed the suit on merit.

27.02.2019

Index:Yes/No

Internet:Yes/No

speaking/non speaking order
mst

To

The III Assistant Judge,
City Civil Court,
Chennai-104.

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N.SATHISH KUMAR, J.,

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