

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2019

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CRP PD No.1651 of 2012 and
M.P.No.1 of 2012

Sarojammal ... Petitioner

Vs.

K.N.Venkatesan ... Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 01.11.2011 passed in I.A.No.731 of 2010 in O.S.No.506 of 2009 by the District Munsif Cum Judicial Magistrate, Sriperumbudur.

For Revision Petitioner : M/s S.Uma Maheswarai

For Respondent : M/s A.Sumathy

ORDER

This revision petition has been filed against the orders passed by the trial court, dismissing the application filed under Order VII Rule 11 of the Code of Civil procedure to reject the plaint.

2. The revision petitioner is the defendant in the original

suit and the suit has been filed by the plaintiff for permanent injunction. Pending suit, the revision petitioner filed an application in I.A.No.731 of 2010 to reject the plaint on the ground that the suit is barred by limitation.

3. Heard the learned counsel for the revision petitioner as well as the respondent and perused the materials on record.

4. The suit has been filed in the year 2007, on the basis of the sale agreement dated 12.04.1998. It is the contention of the revision petitioner that the suit is barred by limitation, since the sale agreement period is lapsed on 12.04.2001. On perusal of a copy of the sale agreement dated 12.04.1998, it reveals that absolutely, there is no time limit fixed in the agreement. When time is not fixed in the agreement, as per the Article 54 of the Limitation Act, limitation starts from the date, when the vendor refused to execute such document. Legal notice was issued on 05.02.2007 to the defendant by the plaintiff to enforce sale agreement dated 12.04.1998 and the defendant by replying dated 15.02.2007, denied the claim of the petitioner. Therefore, from the date of reply dated 15.02.2007, the

suit has been filed within three years, i.e. well within the period limitation. Hence, the contention of the petitioner that the suit is barred by limitation cannot be countenanced. Accordingly, I do not find any infirmity or illegality on the orders passed by the trial court the same does not warrant any interference by this court.

5. In the result,

(i) The Civil Revision Petition is dismissed. No costs. The connected civil miscellaneous petitions is closed. The orders passed by the trial court is confirmed.

(iii) The trial court is directed to disposed the suit within a period of 8 months, from the date of receipt of a copy of this order.

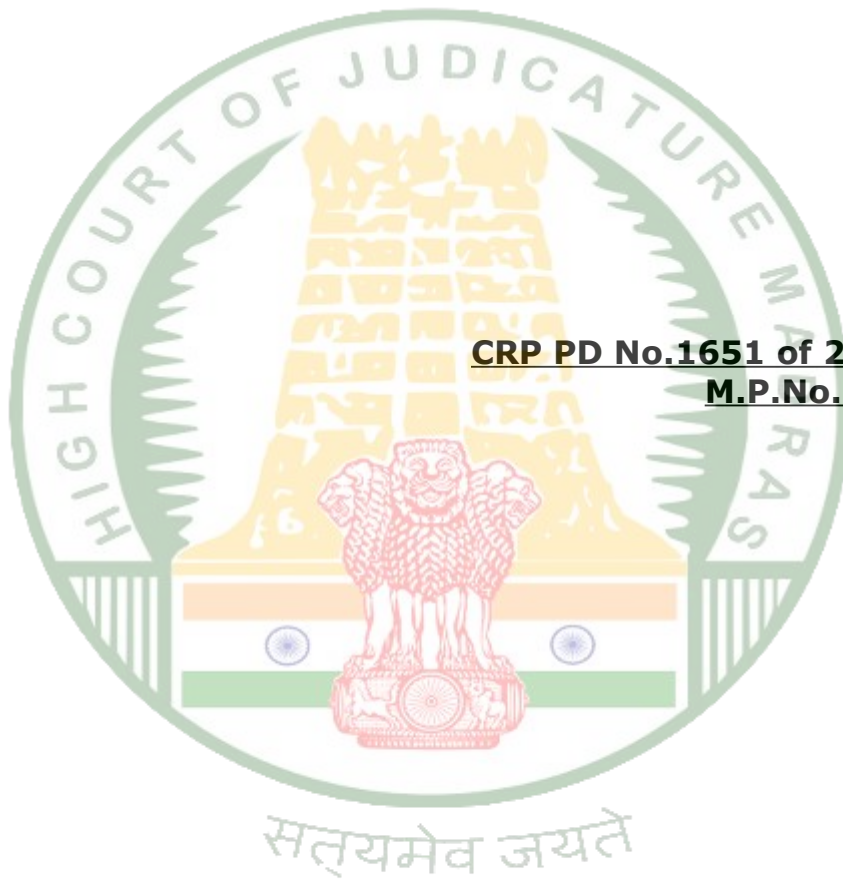
18.03.2019

Index : yes/no
Internet : yes/no
Speaking order/non-speaking order
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To

The District Munsif Cum Judicial Magistrate, Sriperumbudur.

N.SATHISH KUMAR. J.,



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