

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2019

CORAM

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

CRP (PD) NO.2724 OF 2019

1.Saravanan
2.Shanmugam

... Petitioners

VS.

1.Lakshmi
2.Perumal
3.Unnamalai @ Thungamani

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India seeking direction to the learned District Munsif, Palacode to number the suit in filing O.S.No.33 of 2019.

For Petitioners : Mr.L.Mouli

ORDER

This Civil Revision Petition has been preferred seeking a direction to the Trial Court to number the plaint.

2. The petitioners are the plaintiffs and they filed a suit for declaration declaring the sale deed dated 21.03.1997 executed by

their mother as null and void and to declare them as title holders and for recovery of possession. The Trial Court returned the plaint for explaining as to how the suit is well within the limitation period. The petitioners represented the same on 06.03.2019, which is said to have been returned on the very same day. Aggrieved over the return, the petitioners have approached this Court.

3. Heard the submissions made by the learned counsel appearing for the petitioners and perused the materials available before this Court.

4. Considering the material averments, it is seen that the petitioners' mother executed a sale deed bearing Registration No.212/1997 dated 21.03.1997 in favour of the second defendant / second respondent herein. By the said document, the first defendant/first respondent had conveyed the property in the capacity as Guardian of the minors viz., the plaintiffs / petitioners herein, for the welfare of the minors and to settle certain loans. At the time of execution of the sale deed, the first plaintiff was 16 years old and the second plaintiff was 12 years old.

5. It is the contention of the petitioners that they were not aware of the sale and they have chosen to challenge the same immediately after getting knowledge of the same. The Trial Court raised a question as to the maintainability of the suit on the grounds of limitation. When such a question is raised, it is the duty of the plaintiffs/petitioners to explain the same and to show as to how they are exempted from the law of limitation as per Order VII Rule 6 of Civil Procedure Code. Without complying with the returns made, the petitioners / plaintiffs cannot approach this Court seeking direction to the Trial Court to number the suit. Therefore, the Civil Revision Petition is dismissed. However, liberty is granted to the petitioners to represent the plaint with appropriate rectification before the Trial Court. No costs.

6. Registry is directed to return the original plaint to the petitioners/plaintiffs enabling them to represent it before the Trial Court.

30.08.2019

Index : Yes/No
Internet : Yes/No
Speaking / Non-speaking order
TK

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M.GOVINDARAJ, J.

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To

The District Munsif
Palacode,
Dharmapuri District.



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