



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.10.2020

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.R.P.(MD)No.743 of 2020

Singaraj @ Singaravel

... Petitioners/Plaintiff

vs.

1.Venkatesh Kumar

2.Muthusamy

... Respondents / defendants

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records relating with the docket order in unnumbered O.S.No.Under FN:OS/798/2019 and CNR:TNTN050007342019 on the file of the Subordinate Judge, Uthamapalayam and direct to number it and proceed with the same.

For Petitioner : Mr.R.Suriya Narayanan

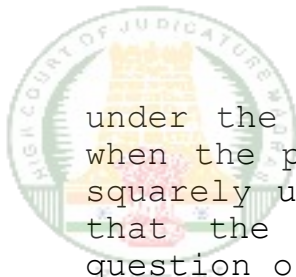
ORDER

This petition is preferred by the plaintiff in an unnumbered suit and it is preferred challenging an order of the trial Court returning the plaint on the ground of limitation. The parties would be referred to by their rank before the trial Court.

2.The suit is laid for specific performance of a contract dated 20.07.2007 and for certain other reliefs. According to the plaintiff there are endorsements in the sale agreement by which possession was also granted to the plaintiff and the endorsement states that the sale deed would be executed as and when the plaintiff requires it. In the meantime, the vendor under the sale agreement died on 27.09.2017, which information plaintiff came to be know on 20.10.2017. Thereafter, he asked the first defendant, who is the legal heir of the vendor to execute the sale agreement in his favour. Thereafter, it has come to the knowledge of the plaintiff that the property was sold on 22.11.2017 by first defendant to the second defendant. It is in these circumstances, the suit was laid.

3.The trial Court has returned the plaint on the ground that the suit is barred by limitation.

4.The learned counsel for the revision petitioner submitted that an endorsement in the sale agreement reads that the vendor



under the sale agreement has to execute the sale deed only as and when the plaintiff requires it. Therefore, the present suit falls squarely under Article 54(2) of the Limitation Act. He also added that the limitation in these circumstances becomes a disputed question of law and that can be ascertained only during trial.

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5.This Court perused the plaint and also the copy of the sale agreement along with the endorsements made available in the typed set of papers. This Court finds that there is considerable merit in the submissions of the learned counsel for the revision petitioner/plaintiff. A plain reading of the plaint, without anything added to it, discloses an impresent cause of action and as the learned counsel for the revision petitioner correctly stated whether Article 54(2) of the Limitation Act will apply to the facts of the present case, can be ascertained only on an factual enquiry. Necessarily, it has to be held that it is premature to presume that the suit is barred by limitation.

6.In these circumstances, this Court allows this civil revision petition and strikes of the order of the Subordinate Court, Uthamapalayam and directs the trial Court to take the plaint onto its file. No costs.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

- 1.The Subordinate Judge, Uthamapalayam.
 - 2.The Section Officer,
V.R.Section, Madurai Bench of Madras High Court, (2 Copies)
Madurai.
- +1 CC to M/s.R. SURIYANARAYANAN, Advocate (SR-19649[F] dated 09/10/2020)

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SDS (28.10.2020) 2P-5C