



C.R.P.(PD).No.2606 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD).No.2606 of 2021

M.Ettiappan

.. Petitioner

Vs.

1.Kandasamy

2.Jagadeesh

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 15.07.2021 made in unnumbered OS in SR.No.2582 of 2021 on the file of the learned Principal District Munsif Court, Namakkal by allowing this Civil Revision Petition.

For Petitioner : Mr.N.Manokaran



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ORDER

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Challenge in this Revision is to the order of the learned District Munsif, Namakkal rejecting the plaint in unnumbered OS.SR.No.2582 of 2021.

2. The suit was filed by the plaintiff for specific performance of the agreement dated 27.05.1993. The agreement provided that the sale shall be completed by 25.5.1996. Thereafter, no action was taken by the plaintiff. On 10.04.2021, the plaintiff woke up from a deep slumber and issued notice seeking performance of the agreement. The defendants replied refusing performance of their part of the contract. The suit was filed thereafter on 02.07.2021. The learned District Munsif after a meaningful reading of the plaint as suggested by the Hon'ble Supreme Court in *Arivandandam Vs. Satyapal* reported in **1977 (4) SCC 467** rejected the plaint holding that the plaint is hopelessly barred by limitation.

3. Mr.N.Manokaran, learned counsel appearing for the petitioner would contend that the Court can exercise Order VII Rule 11 of the Code of



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Civil Procedure only after numbering the plaint. Un-numbered plaint cannot be rejected on the ground of limitation.

4. The language of Order VII Rule 11(d) empowers the Court to reject the plaint, if it appears to it that the suit is barred under any law. A very reading of the plaint would show that the plaintiff has attempted to enforce a stale claim of specific performance of the agreement which was executed on 25.05.1993. Under Article 54 of the Limitation Act, the time begins to run from the expiry of the date fixed for contract. Therefore, the time for institution of suit began to run on 25.05.1996 and ended on 25.05.1999. The suit filed in 2021, after 22 years is hopelessly barred by limitation.

5. Therefore I do not see any reason to interfere with the order of the learned trial Judge. I express my deep sense of appreciation to the learned Principal District Munsif, Namakkal for having applied the dictum of the Hon'ble Ssupreme Court atleast after 45 years of its emergence.



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R.SUBRAMANIAN, J.

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6. The Revision therefore fails and it is accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

30.11.2021

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Index : No

Internet : Yes

Speaking order

To

The Principal District Munsif Court, Namakkal.

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