

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.42 of 2017
and CMP.No.278 of 2017

Ramalingam ..Petitioner

Vs.

Sivakami ..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order of the learned III Additional District Judge, Villupuram @ Kallakurichi in I.A.No.49 of 2016 in OS.No.10 of 2016 dated 03.12.2016

For Petitioner : Mr.N.Ramesh

For Respondent : Mr.R.Ganeshkumar

ORDER

This civil revision petition is filed against the fair and decreetal order of the learned III Additional District Judge, Villupuram @ Kallakurichi in I.A.No.49 of 2016 in OS.No.10 of 2016 dated 03.12.2016 thereby dismissing the petition for rejection of plaint under Order VII Rule 11 of CPC on the ground of limitation.

2. The petitioner is the defendant in the suit filed by the

respondent for specific performance on the strength of the agreement for sale dated 23.05.2013. According to the respondent, he entered into agreement for sale to purchase the suit property for the total sale consideration of Rs.62,25,000/- in which the respondent paid sum of Rs.20,25,000/- on the date of sale agreement. Thereafter it was agreed to receive sale consideration within a period of 72 days from the date of execution of the sale agreement and agreed to execute sale deed in favour of the respondent herein. The petitioner did not comply the same and as such the respondent filed suit for specific performance. The petitioner filed petition for rejection of plaint on the ground that the suit itself is barred by limitation since the sale agreement was executed on 23.05.2013 whereas the respondent filed suit only on 11.07.2016. Therefore, the suit is filed beyond the period of three years and it is clearly barred by limitation.

3. On perusal of the records shows that the suit filed by the respondent for specific performance with alternative relief to repay the advance amount with interest. The agreement dated 23.05.2013 revealed that 72 days was fixed for execution of sale deed. Therefore, from the date of sale deed, the sale deed to be executed within a period of 72 days, which falls on 03.08.2013. After issuance of notice, the respondent filed

suit on 11.07.2016. Therefore the suit is within the time and it is not barred by limitation. Moreover, whether the suit is barred by limitation or not is the triable issue and the plaint cannot be rejected on its threshold. Therefore, the court below rightly dismissed the petition and this Court finds no irregularity or infirmity in the order passed by the court below.

4. Accordingly, this civil revision petition is dismissed. However, the trial court is directed to complete the trial within a period of six months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed. No order as to costs.

05.03.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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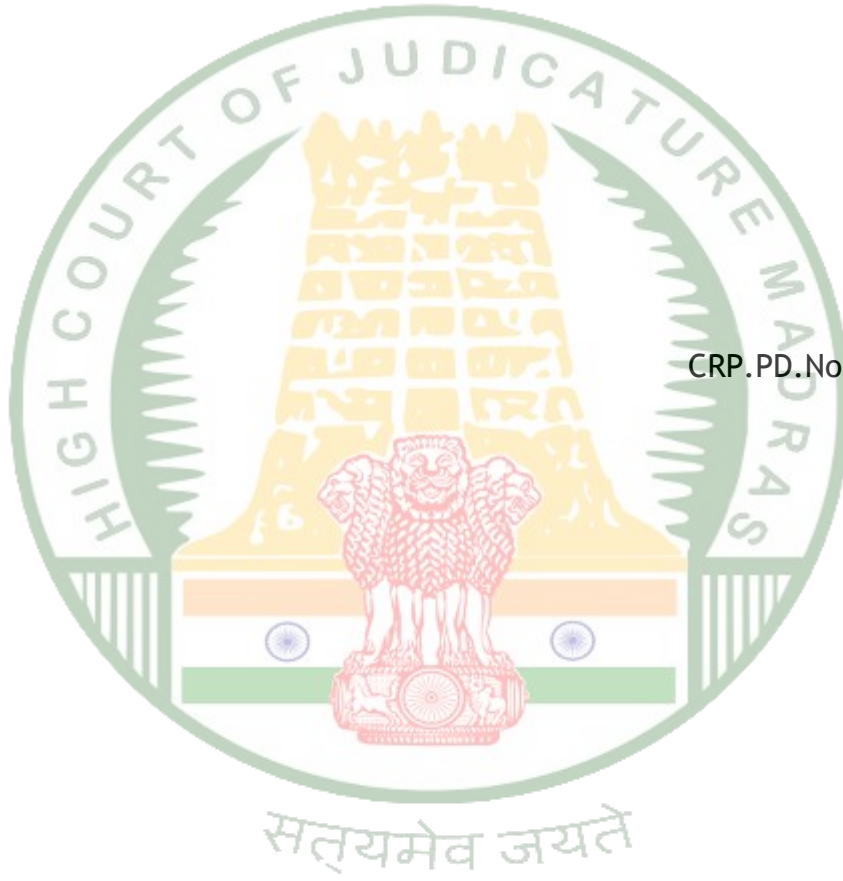
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G.K.ILANTHIRAIYAN,J.

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To

The III Additional District Judge,
Villupuram @ Kallakurichi



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