

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2021

CORAM

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

C.R.P.PD.No.3112 of 2018

and

C.M.P.No.17943 of 2018

Prasanna Kumar

... Petitioner

Vs.

Karar Ahamed

... Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 08.12.2017 passed in I.A.No.176 of 2016 in O.S.No.58 of 2015 by the learned Additional District Judge, Hosur and allow the Civil Revision Petition.

For Petitioner : M/s.R.Aparna

For Respondent : Mr.S.Sudharshan for
Mr.S.Subramanian

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.176 of 2016 in O.S.No.58 of 2015 dated 08.12.2017 on the file of the learned Additional District Judge, Hosur,

thereby dismissing the petition for rejection of plaint.

2. The petitioner is the defendant and the respondent is the plaintiff. The respondent filed the suit for specific performance on the strength of the agreement for sale dated 23.06.2007. While pending the suit, the petitioner filed a petition for rejection of plaint on the ground that the suit itself barred by limitation.

3. The learned counsel for the petitioner submitted that the agreement for sale was entered on 23.06.2007 and after lapse of 8 years, the suit has been laid. Therefore, the suit is barred by the law of limitation.

4. On a perusal of the plaint, it reveals that though the agreement for sale was entered on 23.06.2007, subsequently on 19.11.2009, the petitioner received another part of the sale consideration. Thereafter, the respondent caused notice dated 26.10.2012, thereby calling upon the petitioner to execute the sale deed on 05.11.2012. On receipt of the same, the petitioner failed to perform his part of the contract and as such, in the month of April 2015, the respondent laid the suit. That apart, the limitation is mixed question of law and fact and on that ground, the plaint cannot be rejected. Therefore, the Court below rightly dismissed the petition and this Court

finds no infirmity or illegality in the order passed by the Court below.

5. Accordingly, this Civil Revision Petition is dismissed.

Consequently, the connected Miscellaneous Petition is closed. No costs.

30.06.2021

Speaking/Non-speaking order

Index : Yes/No

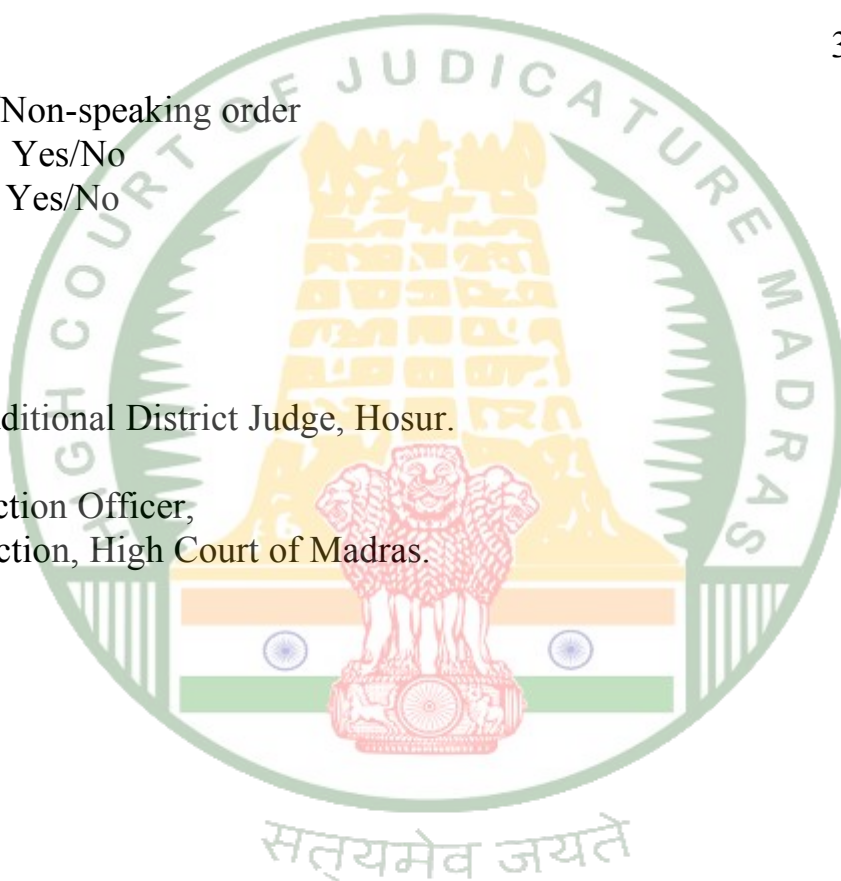
Internet : Yes/No

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To

1. The Additional District Judge, Hosur.

2. The Section Officer,
V.R.Section, High Court of Madras.



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G.K.ILANTHIRAIYAN,J.

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