



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2021

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P(MD)No.1117 of 2021

and

C.M.P(MD) No.6526 of 2021

M.Raphael Stella

... Petitioner/Petitioner/
Defendant

Vs.

Fr.John Kennedy

... Respondent/Respondent/
Plaintiff

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records and set aside the fair and decreetal order passed in I.A.No.106 of 2019 in O.S.No.169 of 2018 dated 29.03.2021 on the file of the Principal District Judge, Thanjavur.

For Petitioner

: Ms.S.Prabashini

For Respondent

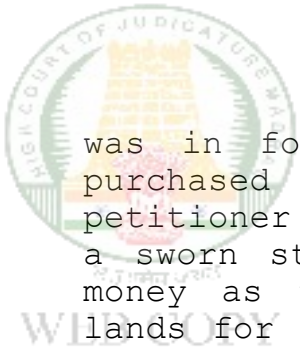
: Mr.V.Karthikeyan
for Mr.K.K.Senthil

ORDER

The defendant is the revision petitioner before this Court challenging the dismissal of her application filed to reject the plaint in O.S.No.169 of 2018 on the file of the Principal District Judge, Thanjavur.

2.The respondent herein had filed a suit in O.S.No.169 of 2018 on the file of the learned Principal District Judge, Thanjavur, seeking recovery of a sum of Rs.12,17,098/- from the petitioner/defendant. The respondent, a man of god, would contend that he had been sending several amounts that he had received as gifts from the American citizens for setting up the society for the deaf and dump. The money was sent by him to his elder brother and his wife for purchasing land at Thanjavur for the above reasons. He had been sending these amounts from the year 2003 onwards.

3.The respondent would submit when he had returned from USA, he



was in for a surprise since the petitioner herein had neither purchased the land nor deposited the amount in the Bank. The petitioner herein and her husband, after several demands, had given a sworn statement on 03.11.2015 acknowledging the receipt of the money as the trustee of the respondent/plaintiff for purchasing lands for the benefit of the disabled and downtrodden people. The acknowledgment was in the form of “உறுதிமொழி பத்திரம்”. The respondent has therefore come forward with the above suit, since the petitioner has not paid the amount.

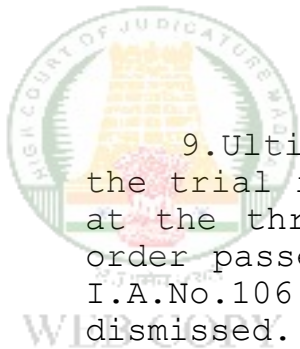
4.The petitioner has filed a written statement *inter alia* contending that the respondent has to prove the various contentions raised by him. She would also submit that the respondent has deliberately omitted to mention the involvement of his brother's wife, one Helen Sahaya Rani, in these transactions. She would further submit that it was Helen Sahaya Rani who had not properly accounted for the money sent by the respondent. On the contrary, she had purchased the property in her name. The said Helen Sahaya Rani passed away and the respondent's brother tried to sell the properties. She would further submit that she had been forced to sign a document without even looking into its contents. The respondent has also taken a plea that the suit is barred by limitation. The written statement was filed on 07.03.2019. Thereafter, the petitioner has come forward with this application to reject the plaint on the ground that the suit is clearly barred by limitation as the transactions had taken place in the year 2003.

5.In the counter statement, the respondent had contended that the question of limitation would not arise especially in the light of the acknowledgment dated 03.11.2015.

6.The learned District Judge, Thanjavur, by his order dated 29.03.2021 was pleased to dismiss the said application stating that the issue of limitation has to be considered only after the evidence is taken, since the petitioner has admitted the execution of deed dated 03.11.2015. Challenging the same, the petitioner is before this Court.

7.Heard the learned counsel appearing on either side and perused the materials placed on record.

8.While considering the application for rejecting the plaint, the Court has to only consider the contents of the plaint and nothing else. From a perusal of the plaint, the plaintiff has made out a *prima facie* case, though the petitioner has pleaded limitation. The acknowledgment dated 03.11.2015 has been pleaded by the respondent and to prove the same a document is also filed. This document would *prima facie* show that the suit is within the limitation.



9.Ultimately, this is an issue which has to be considered after the trial in the matter is concluded and the same cannot be rejected at the threshold. Therefore, I do not find any infirmity in the order passed by the learned Principal District Judge, Thanjavur, in I.A.No.106 of 2019 and consequently, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:-

The Principal District Judge,
Thanjavur.

+1 CC to M/s.K.K.SENTHIL, Advocate (SR-34362[F] dated 12/11/2021)

C.R.P(MD)No.1117 of 2021

11.11.2021

RD(03.12.2021) 3P 3C