



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 23.11.2021**

**CORAM:**

**THE HONOURABLE MS.JUSTICE P.T.ASHA**

C.R.P. (PD) (MD) No.1810 of 2021

C.E.O.A. Matriculation Higher Secondary School,  
Rep., by its Chairman,  
(Runs under Central Excise Executive Officers  
Association Educational Society),  
Sriram Nagar, Kalainagar Extension,  
A.Kosakulam, Madurai-17. .. Revision Petitioner/  
Plaintiff

-vs-

1.A.Chandran  
2.A.C.Karthikeyan  
3.The Sub Registrar,  
Kariyapatti Sub Registrar Office,  
Kariyapatti, Virudhunagar District. .. Respondents/ Defendants

Prayer :- Petition filed under Article 227 of the Constitution of India to set aside the Docket Order dated 30.07.2021 passed in unnumbered O.S.No.UN of 2021 on the file of the Principal District Judge, Srivilliputhur and further direct the Principal District Judge, Srivilliputhur to number the Civil Suit.

For Petitioner : Mr.T.Lajapathi Roy

**ORDER**

This Civil Revision Petition has been filed seeking direction from this Court to the Principal District Judge, Srivilliputhur to number O.S.SR No.545 of 2021 received on 04.02.2021.

2.The brief facts to dispose of this petition are as follows:-

2.1.The petitioner before this Court has filed the above unnumbered suit seeking a direction to the 3<sup>rd</sup> defendant to register the Sale Deed in favour of the plaintiff in respect of the suit properties in keeping with the sale agreement dated 14.01.2016 and in default, direct registration through court. The said suit was received on 04.02.2021 and on 09.02.2021, the same was returned for



the following compliance:-

"Returned

1.Sale agreement entered on 14.01.2016 between R.Jegadambal and Secretary A.Soundarapandian and agrees to conclude the sale within 3 months from the date of Sale agreement. Hence, how the plaintiff entitled for the relief of Specific Performance regarding suit property since the period of 3 years has been lapsed as per Limitation Act.

2.Sale agreement entered by Secretary Soundarapandian on behalf of Plaintiff school but suit filed by Chairman of the same school, how the chairman filed this suit?

3.Sale agreement is not registered as per Indian Registration Act (Amended)

4.Name of the Chairman may be incorporated in the cause (long) title.

5.Bye law.

Time one Month."

2.2.After taking return of the same, the plaintiff had re-presented the papers explaining each of the returns on 22.07.2021. However, once again, on 30.07.2021, the learned Judge has returned the papers stating that the first return dated 09.02.2021, viz., the sale agreement dated 14.01.2016 provided for performance within a period of three months and the suit is filed in the year 2021, which is barred by limitation, to be complied with. The said return has been explained by the plaintiff in their re-representation dated 22.07.2021. However, overlooking the same, the papers have been once again returned.

3.The learned Judge, if not satisfied with the return, could have called the matter in the open court and heard the arguments of the learned counsel for the plaintiff. However, the same has not been done and mechanically, the plaint has been returned. In the explanation offered, the plaintiff has contended that from 07.03.2016, the suit property was under attachment by the Special Court for Trial of Prevention of Corruption Act Cases, Madurai and the same has been lifted only on 31.12.2019 and therefore, that period has to be excluded.

4.Be that as it may, this is an issue that has to be dealt with after the defendants have entered appearance and raised limitation as a ground. It has been time and again stated that limitation is a mix of both facts as well as law. In these circumstances the Civil Revision petition is allowed as prayed for. The petitioner is directed to take return of the original plaint within a period of one week from the date of receipt of a copy of this order and the Registry while handing over the return papers, shall get necessary



acknowledgement. Within a week thereafter, the papers shall be re-presented before the learned Principal District Judge, Srivilliputhur and within two weeks thereafter, the plaint shall be numbered. No costs.

WEB COPY

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

abr

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

1.The Principal District Judge, Srivilliputhur

2.The Sub Registrar,  
Kariyapatti Sub Registrar Office,  
Kariyapatti, Virudhunagar District.

Copy to:

The Section officer, E.R Section,  
Madurai Bench Of Madras High Court,  
Madurai.

+1 CC to M/s.T. LAJAPATHI ROY, Advocate ( SR-35691[F] dated  
24/11/2021 )

C.R.P. (PD) (MD) No.1810 of 2021

Dated: 23.11.2021

RD(07.12.2021) 3P 5C