



C.R.P(PD)No.912 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2022

CORAM:

Mr. JUSTICE N.SESHASAYEE

C.R.P(PD)No.912 of 2022
and C.M.P.No.4639 of 2022

Balakrishnan
S/o.Pazhani Naicker,

...Petitioner

Vs

Suryanarayanan
S/o.Krishnasamy Naidu @ Kisthappa naidu

...Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order dated 25.11.2021 made in I.A.No.1 of 2020 in O.S.No.235 of 2017 on the file of learned Principal Subordinate Judge, Chengalpattu at Kancheepuram.

For Petitioner : Mr.J.Lokesh

ORDER

The defendant in O.S.No.235 of 2017 has come forward with this Revision challenging an order dismissing his application in I.A.No.1 of 2020 which he had filed for rejection of plaint on grounds of non disclosure of cause of action for filing the suit and also that the suit is barred by limitation. By



considered order, the trial Court has dismissed it.

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2.Heard the learned counsel for the revision petitioner.

3.Learned counsel submitted that the revision petitioner is an octogenarian, that he is a neighbour and that the respondent / plaintiff has played fraud on him. This Court also perused the entire papers. The point to be considered here is whether the order of the trial Court is illegal or irregular when it dismissed the application filed by the revision petitioner. The facts disclosed by the papers informs this Court that there are certain factual overtones which needs to be investigated and therefore the trial process cannot be short circuited nor can be avoided. So far as the point for limitation is concerned, it is a mixed question of law and fact and given the context of the case, the proof on fact is likely to enable the trial Court to decide also on limitation.

4.Learned counsel submitted that the revision petitioner is in his advanced age and his mobility is also vastly futile. His submission *per se* has little to do with the issue before the Court. If at all there is any difficulty for the revision petitioner to appear before the Court, he is at liberty to approach the



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trial Court to enable such procedural facility available to him under Order 26

C.P.C.

5.This Civil Revision Petition is disposed of accordingly at the admission stage itself. Consequently, the connected miscellaneous petition is closed. No cost.

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Index : Yes/No

kas/dk

N.SESHASAYEE, J.,



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