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C.R.P. (NPD) .No.3969 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD).No.3969 of 2016

D.Srinivasan

.. Petitioner

Vs.

1.Mary James

2.Sheila Joseph

3.Shoba Thomas

.. Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Judgment and Decree passed in Un.O.S.SR.No.4963 of 2014 dated 29.09.2015 on the file of the Principal Sub Court, Chengalpattu.

For Petitioner : Mr.J.R.K.Bhavanantham
For RR 1 & 2 : No appearance

ORDER

(The matter is heard through “Video Conferencing”.)

This Civil Revision Petition is filed to set aside the Judgment and Decree passed in Un.O.S.SR.No.4963 of 2014 dated 29.09.2015 on the file of the Principal Sub Court, Chengalpattu.



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2.The present Civil Revision Petition is filed challenging the order dated 29.09.2015 in Un.O.S.SR.No.4963 of 2014 on the file of the Principal Sub Court, Chengalpattu, rejecting the plaint filed by the petitioner.

3.The petitioner herein has filed the suit in Un.O.S.SR.No.4963 of 2014 for a direction to the respondents to execute and register the sale deed in favour of the petitioner in respect of the suit property, for a direction to the respondents to deliver the vacant possession of the suit property, for specific performance of agreement sale dated 06.01.2004 or in alternative to direct the respondents to return the advance amount paid by him.

4.The Learned Judge returned the plaint for certain compliance. The petitioner represented the plaint and the same was posted before the Court. The Learned Judge ordered notice to the respondents. The petitioner failed to take notice in spite of opportunity given to him. Finally on 29.09.2015, when there was no representation on behalf of the petitioner, the Learned Judge rejected the plaint. The learned counsel appearing for the petitioner submitted that the suit filed by the petitioner for specific performance of agreement of sale dated 06.01.2004 is not barred by limitation and the petitioner has made



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necessary averments in the plaint as to how the suit is filed in time. The learned counsel appearing for the petitioner contended that even if there is no representation on behalf of the petitioner, the learned Judge ought to have given reason on merits for rejecting the plaint. The said contention has considerable force and the same is acceptable. Hence, the impugned order of the Learned Judge is set aside. The petitioner is directed to represent the plaint within a period of two weeks from the date of receipt of a copy of this order and on such representation, the learned Judge is directed to give an opportunity to the petitioner and if necessary, issue notice to the respondents and after hearing the petitioner and respondents, pass orders on merits and in accordance with law, either to take the plaint on file or to reject the plaint.

5. With the above directions, this Civil Revision Petition is allowed. No costs.

20.01.2022

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Index : Yes / No
Internet : Yes / No



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V.M.VELUMANI, J.
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To

The learned Principal Subordinate Judge,
Chengalpattu.

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