



CRP (PD) No. 3030 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD) No. 3030 of 2021

and

CMP No. 21459 of 2021

M.Rajagopal

... Petitioner/Petitioner/Plaintiff

Vs

1. S.Manimala
2. Saraladevi
3. S.Nagarajan
4. S.Vinayagam
5. S.Sivakumar
6. S.Vasundara

... Respondents 1 to 6

7. The Labour Commissioner
Tyenampet, DMS Office
Chennai.

8. The Chairman
Tamil Nadu Housing Board,
Nandanam, Chennai.

... Respondents/Respondents/Defendants



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PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the decree and order dated 24.08.17 passed in I.A.No. 2591 of 2017 in O.S.No. 963 of 2013 on the file of VI Assistant Court, City Civil Court, Chennai.

For Petitioner : Mr. T.K.Viswanath

ORDER

Challenge in this Revision is to the order of the trial Court dismissing an application for amendment of the plaint in O.S.No. 963 of 2013.

2. The said suit was filed by the petitioner seeking a decree for permanent injunction restraining the defendants 1 to 6 from creating any encumbrance over the suit schedule property and for a permanent injunction restraining the defendants 7 and 8 from issuing sale deed in favour of the defendants 1 to 6.

3. The claim of the petitioner as plaintiff was that he had entered into an agreement of sale on 12.05.2007 agreeing to purchase the property for a consideration of Rs.14,00,000/- and has paid an advance of Rs.1,00,000/-. Though he was ready and willing to pay the balance amount



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of Rs.13,00,000/-, since the Tamil Nadu Housing Board which had allotted the property to the defendants 1 to 6 had not executed a sale deed in favour of the defendants 1 to 6 he could not seek enforcement of the agreement of sale. The fact that the agreement of sale provides for the period of three months for is also admitted. In the year 2017, during the course of trial of the suit, the plaintiff/petitioner herein came up with the instant application in I.A.No. 2591 of 2017 seeking an amendment of plaint to incorporate the prayer for specific performance of the agreement.

4. The learned trial Judge rejected the same by order dated 24.08.2017 on the ground that the same is hopelessly barred by limitation. It is this order which is questioned in this Civil Revision Petition filed on 25.10.2021.

5. No doubt there is no limitation of invoking the constitutional remedy under Article 227 of the Constitution of India, but the petitioner, who seeks to invoke the supervisory jurisdiction must show that he is not guilty of laches. This Revision has been filed almost 4 years after the order of the trial Court. No explanation has been delivered by the petitioner for the delay in filing the Revision. Hence, this Revision has to be rejected on



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the ground of laches alone and even on merits, I do not find any ground to interfere with the order of the Trial Court.

6. The sale agreement dated 12.05.2007 prescribed a period of three months would expire on 12.08.2007. Under Article 54 of the Limitation Act, the three year period prescribed runs from the date of expiry of the time fixed under the agreement. Therefore, the three year period for suing for specific performance had expired on 12.08.2010. The very suit injunction has been filed on 18.01.2013 and the prayer seeking amendment was made by way of I.A.No. 2591 of 2017 on 06.02.2017. Therefore, it is clear that the very relief was specific performance is barred by limitation. Hence, this Revision fails and accordingly, it is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

05.01.2022

vsg

Index: Yes/No

Speaking order / Non speaking order



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R.SUBRAMANIAN, J.

Vsg

To:

1. VI Assistant City Civil Court,
Chennai.
2. The Section Officer,
VR Section,
Madras High Court, Chennai.

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