



C.R.P.No. 4063 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4063 of 2023

Latha

.. Petitioner

Vs

1.S. Marivel

2.S. Saraswathy

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside returned order dated 27.06.2023 passed in unnumbered O.S.SR.No.4273 of 2023 by the learned Sub Judge, Sankari, Salem District and direct the learned Sub Judge, Sankari, Salem District to number the suit and dispose the same on merits in accordance with law.

For Petitioner : Mr. M. Vijaya Ragavan

ORDER

This Civil Revision Petition is filed challenging the docket order passed by the trial Judge in rejecting the unnumbered plaint, the plaintiff has preferred this revision.



C.R.P.No. 4063 of 2023

WEB COPY

2. The learned counsel for the revision petitioner submits that after execution of the release deed dated 15.12.2014, on the same day there was a consent deed executed between the parties in respect of payment of Rs.5 lakhs at the time of selling the property but the same has not been complied by the defendants. So necessity arose for the petitioner / plaintiff to file a suit but the trial Judge erroneously conclude that the suit is barred by limitation by relying the release deed dated 15.12.2014 by ignoring the consent document.

3. Perused the materials available on record. At the time of filing the suit, the plaintiff enclosed both release deed as well as consent document along with plaint. The fact reveals that on the date of execution of the release deed there is an unregistered consent deed dated 15.12.2014 but the trial Judge based on the release deed alone rejected the plaint as if it is barred by limitation but other facts surrounding the release deed also to be taken into consideration. So the rejection of the plaint made by the trial Judge is erroneous one. The execution of the consent deed also form part of the cause



C.R.P.No. 4063 of 2023

of action and non-compliance of the terms. The suit was forced to file by the plaintiff and in para No.8 of the plaint they have stated the other facts but the trial Judge failed to take into consideration of those averments.

4. Therefore, the order passed by the trial Judge in unnumbered O.S.SR.No.4273 of 2023 dated 27.06.2023 on the file of Sub Judge, Sankari, Salem District is set aside. The trial Judge is directed to take the case on file within two weeks from the date of receipt of copy of this order.

5. In the result, the Civil Revision Petition is allowed. No costs.

6. Registry is directed to return the plaint.

17.11.2023

Index :Yes/No
Neutral Citation :Yes/No
AT

To
The Sub Judge, Sankari, Salem District

3/4



WEB COPY



C.R.P.No. 4063 of 2023

T.V.THAMILSELVI, J.

AT

C.R.P.No. 4063 of 2023

17.11.2023