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C.R.P. No.3549 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 03.10.2023

CORAM

**THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI**

C.R.P.No.3549 of 2023

P.V.Sathyanarayanan

... Petitioner

Versus

1. J.Suseela,  
W/o. late N.Jaganathan  
represented by her P.O.A.  
J.Ram Kishore Inder

2. Ram Kisore Inder,  
S/o. late Jaganathan

3. J.Narendra Prasad,  
S/o. late N.Jaganathan  
represented by his P.O.A.  
J.Ram Kishore Inder

4. J.Shreevasthan,  
S/o. late N.Jaganathan  
represented by his P.O.A.  
J.Ram Kishore Inder

... Respondents



C.R.P. No.3549 of 2023

WEB COPY

**PRAYER** : Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the fair and Decreeal order passed in I.A.No.2 of 2022 in O.S.No.6953 of 2022 dated 18.04.2023 on the file of the VI Addl. District Judge, Chennai.

For Petitioner : Mr.V.Manohar

For Respondents : Ms.R.Balambigai Gowri

### **ORDER**

This Civil Revision Petition has been filed challenging the fair and decreetal order passed in I.A.No.2 of 2022 in O.S. No.6953 of 2022 rejecting the plea of leave to defend the suit.

2. Heard both sides.

3. Before the trial court, the respondents/plaintiffs filed a suit for a money claim on summary proceedings. As a defendant, the Revision Petitioner filed an application under Order 37 Rule 3(5) of C.P.C. to grant leave to defend the suit. The defence taken by the defendant is that father of



C.R.P. No.3549 of 2023

plaintiffs and husband of 1<sup>st</sup> plaintiff had a transaction. Having admitted the claim, legal heirs of deceased Jaganathan/plaintiffs filed the suit on summary proceedings, thereby the suit decreed as prayed for in favour of plaintiffs.

3. The learned counsel for Revision Petitioner would submit that the suit itself is barred by limitation, but the trial judge failed to appreciate the same, however, he is having valid defence to prove his case that the suit is barred by limitation. Hence, he approached the court by filing an application to grant leave to defend the suit.

4. The learned counsel for respondents/plaintiffs would submit that due to Covid-19 pandemic period, as per the order passed by Apex Court in W.P. (C) No. 3 of 2020 in para 5(III) reads as follows :-

*“5. III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days*



C.R.P. No.3549 of 2023

WEB COPY

*from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.”*

In so far as the present case is concerned, the limitation falls between 15.03.2020 till 28.02.2022 and thereafter, the suit was filed on 29.09.2022 and the trial judge rightly calculated the limitation period and dismissed the application.

5. On perusal of records, it reveals that the pre-suit notice was issued by the plaintiffs only on 26.08.2022 and though the Covid-19 pandemic period excluded till 28.02.2022, with regard to limitation, the trial judge has to calculate all the period to proceed with the limitation. If opportunity is not given to the defendant to prove his case, his valid right to defend his case will be defeated. So, without influence of the findings of this court, the trial judge is directed to proceed with the trial by giving opportunity to the defendant to submit his defence. Therefore, the findings of the trial judge is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the application filed by the Revision Petitioner in I.A.No.2 of 2022 is



C.R.P. No.3549 of 2023

ordered and leave is granted to the defendant to defend the suit. However, the trial judge is directed to complete the trial and dispose the suit within a period of three months from the date of receipt of copy of this order. Both parties are directed to cooperate with the trial proceedings. No costs.

**03.10.2023**

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To

VI Addl. District Judge,  
City Civil Court,  
Chennai.



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C.R.P. No.3549 of 2023

**T.V.THAMILSELVI, J.**

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C.R.P. No.3549 of 2023

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