



CRP. No. 3712 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

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V.Elangovan

...Petitioner

Vs.

1.Y.Vijaya
2.Devakumari
3.Victoria
4.Prabakar
5.R.Sridhar
6.Sub Registrar
Office of the Sub Registrar,
Tambaram, chennai – 600 045.

....Respondents

PRAYER : This petition filed under Article 227 of the Constitution of India, to set aside the order of rejection dated 17.06.2022 passed in UN. O.S SR No. 539 of 2022 by the Hon'ble Subordinate Judge, Tambaram and direct the Registry/court to number the said original suit.

For Petitioners : Mr.S.Vijay Anand



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ORDER

This petition has been filed to set aside the order of rejection dated 17.06.2022 passed in UN. O.S SR No. 539 of 2022 by the Subordinate Judge, Tambaram and direct the Registry/court to number the said original suit.

2. The petitioner herein filed UN. O.S SR No. 539 of 2022 before the Subordinate Judge, Tambaram, for the relief of specific performance of the sale agreement dated 25.09.1994 to execute the sale deed in favour of the plaintiff and also to declare the general power of attorney dated 27.10.2021 as null and void. But, the said plaint was rejected by the Court below on the ground that the suit was filed after lapse of 21 years and barred under Article 53 of the Limitation Act. Challenging the same, the petitioner filed this petition.

3. The learned counsel for the petitioner submits that cause of action arose only after executing the general power of attorney dated 27.10.2021 by the defendants 1 to 4 to the 5th defendants. Thereafter within the limitation period on 02.02.2022 the petitioner filed the suit but the Court



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failed to appropriate the same. Further, suit the property is the Tamil Nadu housing board property, as per the sale agreement dated 25.09.1994, Yesudaas (Respondents 1 to 4 are legal heirs of the said Yesudass) executed sale agreement in favour of the petitioner's wife/kannagi. On 09.07.2021, the Tamil Nadu Housing Board executed a sale deed in favour of the first respondent but without informing the same to the petitioner the first respondents clandestinely executed general power of attorney in favour of the fifth respondent, hence now only cause of action arose for the petitioner to file the suit. But the Court below failed to appreciate this facts. Hence, he prays to allow this petition.

4. Considering the facts of the case, the suit property was allotted to the deceased Yesudass by the Tamil Nadu Housing Board and he executed sale agreement in favour of the petitioner's wife/Kannagi. Thereafter, in the year 2021, Tamil Nadu Housing Board executed sale deed in favour of the first respondent herein (legal heir of the said Yesudass) and in turn, she along with other legal heirs of Yesudass executed general power of attorney to the fifth respondent. Hence, the cause of action arose for the petitioner to file the suit but the Court below failed to appreciate the above aspects. Hence, order of rejection dated 17.06.2022 passed in UN. O.S SR No. 539



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of 2022 by the Subordinate Judge, Tambaram, is set aside. Further, the Trial Court is directed to number the suit within a period of two weeks from the date of receipt of a copy of this order.

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

21.11.2023

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Registry is directed to return the original plaint to the petitioner.

To

1. The Subordinate Judge, Tambaram.



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T.V.THAMILSELVI,J.

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