



C.R.P(MD)No.539 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2023

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.539 of 2023

and

C.M.P(MD)No.2580 of 2023

1.Santhi

2.Poorani

3.Kathirvel

... Petitioners/Petitioners/
Defendants 1 to 3

Vs.

1.M.Balamurali

...1st Respondent/
1st Respondent/
Plaintiff

2.A.Solaimalai

... 2nd Respondent/
2nd Respondents/
4th Defendant

3.The District Registrar,
Office of the District Registrar,
Dindigul District,

4.The Sub Registrar,
Office of the Sub Registrar,
Kodaikanal

...Respondents 3 to 4/
Respondents 3 to 4/
Defendants 5 to 6



C.R.P(MD)No.539 of 2023

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records relating to the impugned fair and decretal order, dated 11.08.2022 made in I.A.No.758 of 2018 in O.S.No.75 of 2018 on the file of the learned Principal Sub Judge, Palani, and set aside the same.

For Petitioners : No Appearance

ORDER

There is no representation on behalf of the petitioners.

2. The petitioners are the defendants 1 to 3 in O.S.No.75 of 2018 before the Principal Sub Court, Palani. The suit has been instituted for the following relief:

"a) a relief of specific performance of agreement of sale and to direct the defendants 1 to 4 to receive the balance sale consideration which will be deposited by the plaintiff into Court and to execute a sale deed in favour of the plaintiff in respect of the suit property free of encumbrances and on his failure this Honourable Court to execute the sale deed in favour of the plaintiff in respect of the suit property on behalf of the defendants 1 to 4 and to deliver possession of the suit property to the plaintiff without any hindrance.

b) directing the defendants 1 to 4 to pay the cost of this suit of the plaintiff and

c) Passing such other and further reliefs as this Honourable Court may deem fit and necessary under the circumstances of the case and thus render justice."



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3. In the said suit, the petitioners have filed an application under Order 7 Rule 11 of C.P.C., to reject the plaint. By the impugned order, the Principal Sub Court, Palani dismissed the application with the following observations:

"5.Point:

The petition has been filed by the petitioner under Or.7, RII of CPC on the ground of the plaint discloses no cause of action and on the ground of the suit is barred by law. As far as the cause of action is concerned the entire plaint has to be read in whole. According to which the suit has been filed by the plaintiff, for the relief of specific performance on the basis of power of attorney mentioned to have been executed by the deceased one Panchatcharam. On the basis of Power of attorney the power agent has executed the sale agreement. On the basis of which the plaintiff has filed the suit for specific performance. Hence in the above circumstances that the petitioner seeking rejection of plaint for the reason that the plaint do not disclose the cause of action in the considered view of the Court does not arise.

6. The contention of the petitioner is that the petition is barred by law. As far as the petition is barred by law the contention of the petitioner that section 17 of the Registration Act provides for compulsory registration of certain documents including the power of attorney deed. In the suit, power of attorney deed has not been registered. On the basis of which the suit sale agreement was executed and now the suit is instituted by the plaintiff. But Registration Act do not specifically bar any transaction which has taken place on the basis of an unregistered documents. Section 49 of the Registration Act provides for the steps to be taken in case of transaction taken place by way of unregistered document which is to be registered under section 17 of the Registration Act. In the circumstances,



C.R.P(MD)No.539 of 2023

this Court considers that the petition is not barred Or.7 R 11 of CPC as prayed for by the petitioner in the petition.

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In the result, the petition is dismissed. No cost."

4. As mentioned above, the limitation is a mixed question of fact and law. The Court will have to come to a conclusion as to whether the suit is time bared after the written statement is filed and trial is over. Therefore, in my view, no interference is warranted against the impugned order passed by the learned Principal Sub Court, Palani.

5. Considering the fact that the suit is of the year 2018, there shall be a direction to the learned Principal Sub Court, Palani to dispose of the suit in O.S.No.75 of 2018 as expeditiously as possible preferably within a period of 12 months from the date of receipt of copy of this order.

6. The present Civil Revision Petition stands dismissed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

26.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No



C.R.P(MD)No.539 of 2023

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To

- 1.The learned Principal Sub Judge,
Palani,
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P(MD)No.539 of 2023

C.SARAVANAN,J.

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C.R.P(MD)No.539 of 2023

26.04.2023