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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2023

CORAM

**THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN
THILAKAVADI**

C.R.P(MD)No.2311 of 2023
and
C.M.P.(MD).No.11890 of 2023

S.Ithayaraja

... Petitioner/Defendant
No.5

Vs.

1.T.Sidhtha Pathi

... Respondent No.1/
Plaintiff

2.S.Seetha @ Sidhtha Pathi

3.M.Kalidoss

4.P.Chellapandi

5.R.Latha

6.LIC HFL Area Manager,
Area Office,
Madurai District.

...Respondent 2 to 6/
Defendants 1 to 4 &6

Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike of plaint in O.S.No.298 of 2019 on the file of the IV Additional Sub-Court, Madurai.

For Petitioner

:Mr.V.Manikandan

**ORDER**

The Civil Revision Petition is filed to strike of the plaint in O.S.No.

298 of 2019 on the file of the IV Additional Sub-Court, Madurai.

2.Heard the learned counsel appearing for the petitioner and also perused the materials available on record.

3.According to the petitioner/5th defendant, the first respondent/plaintiff filed a suit in O.S.No.219 of 2019 before the 4th Additional District Court, Madurai, for declaration to declare that the the plaintiff is the absolute owner of the disputed property by his registered sale deed No.4070 of 1992 and further to declare the document No.4448/2015 dated 18.05.2015 as null and void. The above suit was filed after a lapse of 28 years, which is clearly barred by limitation. It is further submitted that the petitioner is a bonafide purchaser of the suit lands and constructed a house and residing there. The first respondent/plaintiff is alleging that the lands were belonged to him by a document in the year 1992 and he approached the civil Court, after a lapse of 28 years, which clearly established that he is well aware of the encumbrance and also had the knowledge of the lands being alienated. Therefore, the revision petitioner prays to strike of the plaint in O.S.No.298 of 2019 on the file of the IV Additional Sub-Court, Madurai.



4.The suit is objected on the ground of limitation. Hence, the revision petitioner ought to have filed an application under Order 7 Rule 11 of C.P.C., and only in case of abuse of process of law, he can approach and invoke the provision under Article 227 of the Constitution of India. Therefore, the petitioner is directed to approach the trial Court by filing appropriate application for rejection of plaint, in accordance with law.

5.With this observation, this Civil Revision Petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

13.09.2023

NCC:Yes/No

Index:Yes/No

Internet:Yes/No

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To

1.The IV Additional Sub-Court,
Madurai.

2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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K.GOVINDARAJAN THILAKAVADI, J.

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