



CRP(MD).No.2230 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2023

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

CRP(MD).No.2230 of 2022

and

C.M.P(MD).No.10447 of 2022

1.Suresh

2.Suba Christy @ Suba Christy Ponmalar

... Petitioners/Defendants

Vs.

Jesus Antony Saviour

... Respondent/Plaintiff

PRAYER : Revision Petition filed under Article 227 of the Constitution of India, to strike off the plaint in O.S.No.157 of 2021 on the file of the learned II Additional District Court, Thoothukudi.

For Petitioners : Mr.T.A.Ebenezer

For Respondent : Mr.A.Sankararamasubramanian

ORDER

The present revision petition has been filed to strike off the plaint on the ground that it is barred by limitation.

2. According to the defendants, the plaintiff has executed 4 sale deeds on 30.12.2015. The present suit has been filed seeking for



mandatory injunction to cancel all the said sale deeds. The suit has been filed on 04.10.2021. According to the learned counsel appearing for the defendants, the suit ought to have been filed within a period of three years and the present suit has been filed after a period of 6 years. It is a case where it is clear that the suit is barred by limitation. Hence, he prayed that this Court can exercise its jurisdiction under Article 227 of the Constitution of India and strike off the plaint.

3. Per contra, the learned counsel appearing for the plaintiff had contended that though sale deeds were executed by the plaintiff, it is only a security for the loan amount received by him. Despite the plaintiff attempted to repay the loan, the second defendant did not accept the loan amount. Therefore, according to the plaintiff, they lodged a complaint on 16.05.2018 before the concerned police station. The plaintiff had further contended that in the police station, the second defendant had agreed that she will reconvey the property in favour of the plaintiff provided the plaintiff pays a sum of Rs.45 Lakhs on or before 19.11.2018. According to the plaintiff, the second defendant had refused to receive the amount and reconvey the property. Therefore, the cause of action for filing the present suit arose only on 19.11.2018 and the suit filed on 04.10.2021 is within time.



CRP(MD).No.2230 of 2022

4. The documents relating to police complaint and undertaking letter have been placed before the Court for the first time. Therefore, this Court is of the view that these documents could not be entertained by this Court. This Court finds that certain disputed facts are involved and certain documents are being placed across the bar before the Court. In such view of the matter, this Court is not in a position to entertain this petition directly under Article 227 of the Constitution of India and strike off the plaint. Accordingly, the Civil Revision Petition stands dismissed with liberty to the petitioners to approach the Court to file an application under Order 7 Rule 11. The parties are at liberty to place all the relevant documents before the trial Court and the same may be decided on merits and in accordance with law, without being influenced by any one of the observations made by this Court. No costs. Consequently, connected Miscellaneous Petition is closed.

14.02.2023

Index : Yes / No

Internet : Yes / No

Rmk

To

The II Additional District Judge, Thoothukudi.



WEB COPY



CRP(MD).No.2230 of 2022

R.VIJAYAKUMAR ,J.,

Rmk

Order made in
CRP(MD).No.2230 of 2022

Dated:
14.02.2023