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C.R.P.(PD).No.1044 of 2024

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

**DATED : 21.03.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**C.R.P.(PD).No.1044 of 2024**

**and**

**C.M.P.No.5545 of 2024**

Shanmugam

... Petitioner

VS

1.M/s. Vellingiri Andavan Textiles Private Limited,  
Represented by its Managing Director,  
C.V. Sampath Kumar,  
S/o C.N. Venkatasamy  
Door No.21/A, Avinashi Road,  
Chinniampalayam Post,  
Coimbatore – 641 062.

2.A.Selvaraj

3.S.Pankajam

4.P.Vasuki

... Respondents

**Prayer:** Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the Fair and Final Order dated 08.09.2023



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passed by the learned District Munsif, Suler in I.A.No.3 of 2022 in O.S.No.736 of 2017.

For Petitioner : M/s.L.Mouli

### **ORDER**

The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the application filed by the petitioner seeking amendment of the plaint.

2. The petitioner herein filed a suit for permanent injunction against the 1<sup>st</sup> respondent. Now, the present application is filed for amendment of the plaint. The petitioner by way of amendment wants to include four new prayers for a declaration that Sale Deeds dated 28.01.2008, 28.01.2008, 04.10.2010 and 04.10.2010 executed by 2<sup>nd</sup> defendant in favour of 3<sup>rd</sup> defendant, 2<sup>nd</sup> defendant in favour of 4<sup>th</sup> defendant, 3<sup>rd</sup> defendant in favour of 1<sup>st</sup> defendant and 4<sup>th</sup> defendant in favour of 1<sup>st</sup> defendant were null and void. The said application was dismissed by the Trial Court on the ground that prayer sought in the amendment application was hopelessly barred by limitation. Aggrieved by the same, the petitioner is before this Court.



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WEB COPY 3. The learned counsel appearing for the petitioner submitted that the Sale Deeds executed by 2<sup>nd</sup> defendant in favour of defendants 3 and 4 dated 28.01.2008 were invalid as the Principal of 2<sup>nd</sup> defendant-Rajeswari died on 28.01.2008 prior to execution of Sale Deeds. Therefore, the amendment sought for shall be allowed.

4. The Sale Deeds sought to be declared as null and void were referred to in the written statement filed by 1<sup>st</sup> defendant as early as 2011. However, the present application has been filed by the petitioner only in the year 2022, nearly after 11 years. Therefore, the petitioner failed to challenge the sale deeds within 3 years from the date of acquiring knowledge about the same. In such circumstances, the amendment sought for is hopelessly barred by limitation. The Trial Court rightly dismissed the amendment application on the ground of limitation. I do not find any error in the order passed by the Trial Court. However, it is made clear that notwithstanding dismissal of amendment petition, the legal effect of death of Principal prior to execution of sale deeds dated 28.01.2008, by Power Agent can be raised by Petitioner at



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any time provided death of Principal prior to execution of sale deed is established by evidence.

5. Accordingly, the Civil Revision Petition stands dismissed. No costs.

Consequently, the connected civil miscellaneous petition is closed.

**21.03.2024**

Index : Yes / No  
Speaking order : Yes / No  
Neutral Citation : Yes / No  
dm



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To

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The District Munsif,  
Sulur.



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**S.SOUNTHAR, J.**

dm

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