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C.R.P.(PD).No.1477 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2024

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD).No.1477 of 2024 &
CMP.No.7930 of 2024

D.Gopal

... Petitioner

-Versus-

1.Santhi

2.T.Indirani

3.M.Panjalai

4.T.Munusamy

5.P.Sabitha

6.T.Meganathan

... Respondents

Civil Revision Petition under Article 227 of the Constitution of India against the order passed in I.A.No.7 of 2023 dated 23.01.2024 in O.S.No.87 of 2020 on the file of the Principal District Munsif Court, Kanchipuram, Kanchipuram District.

For Petitioner : Mr.K.G.Senthilkumar

ORDER

This Civil Revision Petition seeks to set aside the order passed in I.A.No.7 of 2023 in O.S.No.87 of 2020.



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2. O.S.No.87 of 2020 is a suit for specific performance of an agreement of sale entered into between the plaintiff's husband and one Veerasamy. In order to enforce the agreement, the present suit has been brought.

3. Defendants 1 to 5 alienated the property in favour of the sixth defendant on 28.02.2020 by way of a registered sale deed. According to the sixth defendant, since the sale agreement is dated 05.05.2000 and the suit has been filed in the year 2020, it is barred by time.

4. Learned trial judge did not agree with this plea to reject the plaint on the grounds that the suit has been barred by limitation and dismissed the application, against which the present revision.

5. For the purpose of rejecting the plaint, the averments made in the plaint alone matter and the defence that is taken by the defendant is irrelevant. In paragraph 8 of the plaint, the plaintiff has specifically taken a plea that no time limit was fixed under the sale agreement dated 05.05.2000. If no time limit is fixed under the sale agreement, the second part of Article 54 of the



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Limitation Act would apply. That is to say, the limitation to file a suit would commence when the plaintiff has noticed that the performance is refused.

6. In this particular case, the execution of the sale deed in favour of the sixth defendant has been treated as a commencement of limitation. The sale deed was executed on 28.02.2020 and the suit was presented within three months thereafter. Hence, a reading of the plaint shows that the suit is not barred by limitation.

7. In view of the above, I do not find any reason to differ from the view taken by the learned Principal District Munsif at Kancheepuram. Accordingly, this civil revision petition is dismissed. No costs.

12.04.2024

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Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order

To

The Principal District Munsif at Kancheepuram.



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V.LAKSHMINARAYANAN, J.

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