



C.R.P.No.1369 of 2024.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.1369 of 2024

R.D.Aranganathan (Deceased)

1.R.D.R.Kalyani

2.R.D.R.Ramesh

... Petitioners

Vs.

K.Govindan

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to direct the District Court, Cuddalore to number the suit in Diary No.40380-40392/2023.

For Petitioner

:Mr.G.Surya Narayanan

ORDER

The Civil Revision Petition is filed seeking a direction to District Court, Cuddalore to number the suit in Diary No.40380-40392/2023(Original Sr.No.2482 dated 13.12.2022).



2. The petitioner herein filed a suit seeking specific performance of the agreement dated 16.09.2004 in the above mentioned Diary number. The suit was originally presented on 13.12.2010 and the plaint was returned from time to time and the last return was made on 18.12.2023. In its' return, the Trial Court raised the following queries:-

- 1. How the suit is maintainable to be stated without original document dated 16.09.2004?*
- 2. How the suit is in time to be stated?*
- 3. Fly sheet to be enclosed.*

3. The learned counsel for the petitioners submitted that original sale agreement dated 16.09.2004 was filed in O.S.No.177 of 2010 on the file of Additional District Munsif Court, Virudhachalam and therefore, the petitioner was not in a position to file original sale agreement. In fact, the said fact was mentioned by the petitioner in Paragraph No.14 of the plaint. Now, the learned counsel for the petitioners undertake to produce the certified copy of the original sale agreement dated 16.09.2004 and produce the same along with the plaint at the time of representation. The said statement is recorded. The learned counsel further submits that as per the cause of action paragraph, the last



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payment under agreement was made on 21.03.2008 and time for performance was extended by one year. The said period expired on 21.03.2009. The suit was filed well within a period of three years (i.e.13.12.2010). Therefore, the limitation question raised by the trial Court is of no substance.

4. As far as 3rd return is concerned, the petitioners have to include a fly sheet for the plaint. The petitioners are ready to include a new fly sheet as per the 3rd return. Therefore, there cannot be any impediment for the Trial Court to number the plaint and dispose of the same in accordance with law.

5. In view of the same, the Civil Revision Petition stands allowed by directing the Trial Court to number the plaint in Diary No.40380-40392/2023 on condition that petitioners shall represent the original plaint along with the certified copy of the suit agreement dated 16.09.2004. No costs.

27.03.2024

Index : Yes / No

Internet : Yes / No

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Note: Registry is directed to return the original plaint in Diary No.40380-40392/2023 to the counsel for the petitioner.

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To
The District Court, Cuddalore.



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S.SOUNTHAR, J.

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