



C.R.P.[NPD].No.4587 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 15.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

C.R.P.[NPD].No.4587 of 2024

S.Nirmaladevi

. . . Petitioner

Versus

1. Ramal
2. V.Kathirvel
3. V.Arichandran
4. R.Somasundaram

. . . Respondents

PRAYER : Petition filed under Article 227 of Constitution of India to allow the above Civil Revision Petition and direct the Subordinate Judge, Erode to number the suit in returned docket Order dated 14.07.2023 in filing F.No.1146 of 2023 on the file of the Sub Court, Erode.

For petitioner : Mr.S.Thirukkumaran



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ORDER

Challenging the return of the plaint filed by the revision petitioner, even before numbering the suit, the present Civil Revision Petition has been filed.

2. The suit has been filed by the plaintiff for enforcement of the contract said to have been executed on 05.11.2018 which was later extended on payment of further sale consideration. That apart, the plea of readiness and willingness has not been averred in the plaint. Hence, the plaint filed by the revision petitioner has been returned. Challenging the same, the present revision has been filed.

3. Heard the learned counsel appearing for the revision petitioner. I have perused entire materials available on record.



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4. As far as limitation aspect is concerned, it is mixed question of law and facts and same can be decided only at the time of trial after numbering the suit and it cannot be gone into at this stage. As far as plea of readiness and willingness is concerned, in view of the Amendment of the Act 18 of the Specific Relief Act mandatory condition to plead readiness and willingness has been taken away and now what is required is only a proof of readiness and willingness and not the pleading. Hence, the direction of the trial Court to make necessary averments in the plaint is not warranted. Hence, the impugned Order is set aside and the trial Court is directed to number the suit and proceed as per law.

5. With the above direction, this Civil Revision Petition is allowed.

No costs.

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Index : Yes / No

Internet: Yes

Speaking/non speaking order

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N. SATHISH KUMAR, J.

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