



C.R.P.[NPD].No.4562 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 13.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

C.R.P.[NPD].No.4562 of 2024

1. M.Krishnan
2. M.Thirumal
3. E.Theepainthan
4. R.Rajakumar

. . Petitioners

Versus

1. Thanigaivel
2. M.Anusha
3. Adhishesan
4. The Sub Eistrar,
Villanur Sub Registrar Office,
Puducherry - 605 010.
5. The District Registrar,
Registration Department of Puducherry,
Ground Floor – Kamaraj Salia,
Sakthi Nagar, Saram, Puducherry – 605 013.

6. Union of India,
rep. by its Chief Secretary,
Government of Puducherry, Puducherry – 605 001. . . . Respondents



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PRAYER : Petition filed under Article 227 of Constitution of India to set aside the Order passed by the learned Principal District Judge at Puducherry in unnumbered O.S.No. of 2024 Order dated 13.08.2024 thereby rejected the plaint filed by the petitioner and consequently direct the learned Principal District Judge, Puducherry to accept and to number the plaint filed by the petitioner.

For petitioner : Mr.N.U.Pressanna

ORDER

Challenging the impugned Order rejecting the plaint even without numbering the suit, the Civil Revision Petition has been filed.

2. As the impugned Order has been passed even before numbering the suit, this Court is of the view that notice to the other side is not required, since the Order has not been passed at the instance of the respondents.

3. The suit has been filed by the plaintiff for specific performance of an oral agreement for sale dated 10.03.2024 and also for permanent



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injunction. It is the case of the petitioner that the defendant in the suit has agreed to sell the subject property for a total sale consideration of Rs.42,89,000/- and received a sum of Rs.40,89,000/-. In this regard, an unregistered sale deed has also been executed in favour of the plaintiff. As the defendant has not come forward to execute the sale deed as it was agreed between the parties orally on 10.03.2024, the suit has been filed. The trial Court even before numbering the suit, has rejected the plaint on the ground that there is no agreement and the suit has been filed on the basis of an oral agreement. Hence, rejected the plaint on ground of want of cause of action and limitation.

4. Heard the learned counsel for the revision petitioner.

5. At the outset, this Court is of the view that the Order of the trial Court rejecting the plaint even before numbering the suit cannot be valid in the eye of law for the simple reason that as the plaintiff has clearly averred in the plaint that there was an unregistered sale deed executed in favour of the



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plaintiff. Besides there was also an oral arrangement. All these aspects are a matter of evidence and the same can be gone into only in trial. As far as limitation is concerned, the same is mixed question of law and facts. In such view of the matter, this Court is of the view that the Court cannot presume, even without numbering the suit, that the suit is barred by limitation, when there are sufficient pleadings made in the plaint. Whether the suit is barred by limitation or not and whether there is any such oral agreement, are a matter of evidence and it is for the defendant to take such pleas and the Court cannot sit as a defendant and reject the plaint even before numbering the suit. Hence, the trial Court is directed to number the suit and proceed further.

6. With the above observations, this Civil Revision Petition is allowed. No costs.

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Index : Yes / No
Internet: Yes
Speaking/non speaking order
vrc

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