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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2024

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)(PD)No.607 of 2020

G.Arputham

... Petitioner

vs.

1.Mary Jeya
2.M.Jershika (Minor)
3.P.Maria Dhas
4.V.Maria Augustin

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the order, 07.08.2020 passed in filing No.O.S/115 of 2020 on the file of the Court, Subordinate Judge at Eraniel and to direct the lower Court to number the original suit.

For Petitioner
For R1 to R3

:Mr.J.John Jayakumar
:Mr.A.Balakrishnan



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ORDER

The present Civil Revision Petition has been filed challenging the return of plaint filed by the petitioner in filing No.O.S/115 of 2020 by the learned Subordinate Judge at Eraniel, by order dated 07.08.2020.

2.The petitioner herein is the plaintiff in the unnumbered suit filed before the Subordinate Court, Eraniel. The suit was filed for a declaration, permanent injunction and to set aside the sale deed, dated 16.09.1995 and for other reliefs.

3.After the suit was filed by the petitioner/plaintiff, there were returns for certain compliances and by order, dated 07.08.2020, the learned Subordinate Judge at Eraniel, had returned the plaint on the ground of limitation. Hence, the present Civil Revision Petition has been filed by the plaintiff.

4.According to the petitioner/plaintiff, he has complied with all the defects on 31.07.2020.



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5. However, it is seen from the original plaint, which is annexed along with this petition, that the return dated 15.07.2020 was not complied and therefore, again, the same was re-presented on 24.07.2020 and an endorsement was made by the plaintiff, that, there appears to be no defect and if the case is taken before the Bench, the plaintiff would convince the Court with regard to the defects. Despite an endorsement was made by the plaintiff, the same was again returned on the ground of limitation.

6. Though the Court below has returned the plaint on the ground of limitation, the learned Counsel for the petitioner contends that the plaintiff came to know about the sale deeds dated 16.09.1995 and 21.09.1992 only on 11.10.2019. As the plaintiff claims that the knowledge of the sale deed was only on 11.10.2019, the return on the point of limitation is not sustainable, as it is a matter of evidence and hence, the trial Court is directed to number the suit and hear the plaintiff on the point of limitation and on any other defects and pass appropriate orders within a period of three months from the date of receipt of this order.



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7. With the above observations, this Civil Revision Petition is disposed of.
No costs. The Registry is directed to return the original plaint to the petitioners
herein.

14.11.2024

Internet : Yes/No
NCC : Yes/No
Speaking Order : Yes/No

To
The Subordinate Judge at Eraniel.



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N.SENTHILKUMAR, J.

cmr

Order made in
C.R.P.(MD)(PD)No.607 of 2020

14.11.2024