IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 01.04.2025

PRONOUNCED ON: 28.05.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.Nos.957 & 958 of 2025
and CMP.Nos.5528 & 5522 of 2025

C.R.P.No.957 of 2025 :

1.M/s.Chaalaka Development & Reality Pvt. Ltd.,
Represented by its Authorised Signatory
Mr.K.B.Nagraj, S/o. Kuruba Chinna Thimappa
Nariman Point, Mumbai – 400 021
And having its Office at :
III Floor, Executive Office, Hotel Sahara Star Vile Parle
Mumbai, Maharashtra – 400 021
Represented by its Authorised Signatory
Mr.Dwaraknath Govind
Presently :
9th Floor, 97-98 Atlanta Building
Nariman Point, Mumbai – 400 021.

2.M/s.Chaarvi Reality &Development Pvt. Ltd.,
Represented by its Authorised Signatory
Mr.K.B.Nagraj, S/o. Kuruba Chinna Thimappa
Nariman Point, Mumbai – 400 021

And having its Office at :
III Floor, Executive Office, Hotel Sahara Star Vile Parle
Mumbai, Maharashtra – 400 021
Represented by its Authorised Signatory
Mr.Dwaraknath Govind
Presently :
9th Floor, 97-98 Atlanta Building
Nariman Point, Mumbai – 400 021.

3.M/s.Chiraayu Estate &Development Pvt. Ltd.,
Represented by its Authorised Signatory
Mr.K.B.Nagraj, S/o. Kuruba Chinna Thimappa
Nariman Point, Mumbai – 400 021
And having its Office at :
III Floor, Executive Office, Hotel Sahara Star Vile Parle
Mumbai, Maharashtra – 400 021
Represented by its Authorised Signatory
Mr.Dwaraknath Govind
Presently :
9th Floor, 97-98 Atlanta Building
Nariman Point, Mumbai – 400 021.

4.M/s.Cyrus Estate & Reality Pvt. Ltd.,
Represented by its Authorised Signatory
Mr.K.B.Nagraj, S/o. Kuruba Chinna Thimappa
Sahara India Point, CTS 40 & 44, SV Road
Goregan (W), Mumbai – 400 104.

5.M/s.Dattaatreya Estate & Reality Pvt. Ltd.,
Represented by its Authorised Signatory
Mr.K.B.Nagraj, S/o. Kuruba Chinna Thimappa
Sahara India Point, CTS 40 & 44, SV Road
Goregan (W), Mumbai – 400 104.
And having its office at :

III Floor, Executive Office, Hotel Sahara Star Vile Parle
Mumbai, Maharashtra – 400 021
Represented by its Authorised Signatory
Mr.Dwaraknath Govind
<u>Presently :</u>
Represented by its Authorised Signatory
Mr.K.B.Nagraj, S/o.Kuruba Chinna Thimappa
Sahara India Point, CTS 40 & 44, SV Road
Goregaon (W), Mumbai – 400 104.

6.M/s.Deepesha Reality & Leasing Pvt. Ltd.,
Represented by its Authorised Signatory
Mr.K.B.Nagraj, S/o. Kuruba Chinna Thimappa
Sahara India Point, CTS 40 & 44, SV Road
Goregan (W), Mumbai – 400 104.
And having its office at :
III Floor, Executive Office, Hotel Sahara Star Vile Parle
Mumbai, Maharashtra – 400 021
Represented by its Authorised Signatory
Mr.Dwaraknath Govind
<u>Presently :</u>
Represented by its Authorised Signatory
Mr.K.B.Nagraj, S/o. Kuruba Chinna Thimappa
Sahara India Point, CTS 40 & 44, SV Road
Goregan (W), Mumbai – 400 104.

7.M/s.Hilary City Homes Reality Pvt. Ltd.,
Represented by its Authorised Signatory
Mr.K.B.Nagraj, S/o. Kuruba Chinna Thimappa
1, Kapoorthala Complex, Aliganj, Lucknow – 226 024
Having its Office at:
III Floor, Executive Office, Hotel Sahara Star Vile Parle
Mumbai, Maharashtra – 400 021
Represented by its Authorised Signatory

Mr.Dwaraknath Govind
Presently :
Represented by its Authorised Signatory
Mr.K.B.Nagraj, S/o. Kuruba Chinna Thimappa
1, Kapoorthala Complex, Aliganj, Lucknow – 226 024

7.M/s.Devaputra Estate & Investment Pvt. Ltd.,
Represented by its Authorised Signatory
Mr.K.B.Nagraj, S/o. Kuruba Chinna Thimappa
C 502, Lilac Garden, Charkop, Mumbai – 400 067, and
Having its Office at:
III Floor, Executive Office, Hotel Sahara Star Vile Parle
Mumbai, Maharashtra – 400 021
Represented by its Authorised Signatory
Mr.Dwaraknath Govind
Presently :
Represented by its Authorised Signatory
Mr.K.B.Nagraj, S/o. Kuruba Chinna Thimappa
C 502, Lilac Garden, Charkop, Mumbai – 400 067.

8.M/s.Dhananjay Estate & Reality Pvt. Ltd.,
Represented by its Authorised Signatory
Mr.K.B.Nagraj, S/o. Kuruba Chinna Thimappa
Sahara India Point, CTS 40 & 44, SV Road
Goregan (W), Mumbai – 400 104.
And having its office at :
III Floor, Executive Office, Hotel Sahara Star Vile Parle
Mumbai, Maharashtra – 400 021
Represented by its Authorised Signatory
Mr.Dwaraknath Govind
Presently :
Represented by its Authorised Signatory
Mr.K.B.Nagraj, S/o. Kuruba Chinna Thimappa

Sahara India Point, CTS 40 & 44, SV Road
Goregan (W), Mumbai – 400 104.

10.M/s.Sahara Prime City Limited
Represented by its Authorised Signatory
Mr.K.B.Nagraj, S/o. Kuruba Chinna Thimappa
Sahara India Centre, 2 Kapoorthala Complex
Lucknow – 226 024.
And having its office at :
III Floor, Executive Office, Hotel Sahara Star Vile Parle
Mumbai, Maharashtra – 400 021
Represented by its Authorised Signatory
Mr.Dwaraknath Govind
Presently :
Represented by its Authorised Signatory
Mr.K.B.Nagraj, S/o. Kuruba Chinna Thimappa
Sahara India Centre, 2 Kapoorthala Complex
Lucknow – 226 024.

11.M/s.Dharmaveer Development & Reality Pvt. Ltd.,
Represented by its Authorised Signatory
Mr.K.B.Nagraj, S/o. Kuruba Chinna Thimappa
Sahara India Point, CTS 40 & 44, SV Road
Goregan (W), Mumbai – 400 104.
And having its office at :
III Floor, Executive Office, Hotel Sahara Star Vile Parle
Mumbai, Maharashtra – 400 021
Represented by its Authorised Signatory
Mr.Dwaraknath Govind
Presently :
Represented by its Authorised Signatory
Mr.K.B.Nagraj, S/o. Kuruba Chinna Thimappa
Sahara India Point, CTS 40 & 44, SV Road

Goregan (W), Mumbai – 400 104.

12.M/s.Sahara City Homes – Vellore
Represented by its Authorised Signatory
Mr.K.B.Nagraj, S/o. Kuruba Chinna Thimappa
Sahara City Cente, 2, Kapoorthala Complex
Lucknow – 226 024
Having its Office at:
Sahara India Complex, Kapoorthala Complex
Aliganj, Lucknow – 226 024.
Represented by its Partners M/s.Sahara Prime City Limited
Represented by its Authorised Signatory
Mr.Dwaraknath Govind
Presently :
Represented by its Authorised Signatory
Mr.K.B.Nagraj, S/o. Kuruba Chinna Thimappa
Sahara India Centre, 2, Kapoorthala Complex,
Lucknow – 226 024. ...Petitioners / Petitioners / Defendants

Vs

M/s.Sameera Estates Private Limited
Represented by its Authorised Signatory
Mr.S.K.Kumar
No.44A, Plot No.3203-A
A Block, 6th Street
Anna Nagar, Chenai – 600 102. ...Respondent / Respondent / Plaintiff

C.R.P.No.958 of 2025 :

1.M/s.R.K.Dhayu Real Estates LLP
Represented by its Partner
Mr.Dhayanath Krishnamurthy
Having its registered office at
69, Karumaram Palayam
Uthukuli Main Road, Tiruppur – 641 607.

2.M/s.R.K.Nivi Dhaya Real Estates LLP
Represented by its Partner
Mr.Dhayanath Krishnamurthy
Having its registered office at
69, Karumaram Palayam
Uthukuli Main Road, Tiruppur – 641 607.

.... Petitioners / Petitioners / Defendants 14 & 15

Vs

M/s.Sameera Estates Private Limited
Represented by its Authorised Signatory
Mr.S.K.Kumar
No.44A, Plot No.3203-A
A Block, 6th Street
Anna Nagar, Chenai – 600 102.

...Respondent / Respondent / Plaintiff

Prayer in CRP.No.957 of 2025: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 24.01.2025 in I.A.No.20 of 2025 in O.S.No.134 of 2024 passed by the learned I Additional District and Sessions Court at Vellore and reject the plaint in O.S.No.134 of 2024 and allow the civil revision petition.

Prayer in CRP.No.958 of 2025: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 24.01.2025 in I.A.No.7 of 2024 in O.S.No.134 of 2024 passed by the learned I Additional District and Sessions Court at Vellore and reject the plaint in O.S.No.134 of 2024 and allow the civil revision petition.

For Petitioners (in both CRPs) : Mr.J.Sivanandaraj, Senior Counsel for Mr.Akhil R.Bhansali

For Respondent (in both CRPs) : Mr.S.Namasivayam

COMMON ORDER

These civil revision petitions are filed challenging the order passed by the learned I Additional District and Sessions Judge, Vellore, in I.A.No.20 of 2025 and I.A.No.7/2024 respectively in O.S.No.134 of 2024.

2. The defendants 14 and 15 have filed I.A.No.7 of 2024 and the defendants 1 to 12 have filed I.A.No.20 of 2025. Both the interlocutory applications have been filed to reject the plaint in O.S.No.134 of 2024 pending on the file of I Additional District and Sessions Court, Vellore. The learned I Additional Principal and Sessions Judge, Vellore, has considered both these interlocutory applications and by a common order dated 24.01.2025, proceeded to dismiss the same. Aggrieved by the same, the defendants 1 to 12 have filed CRP.No.957 of 2025, and the defendants 14 and 15 filed CRP.No..958 of 2025. Parties hereinafter would be referred to by their ranks as before the trial Court.

3. Before proceedings to discuss the order now under challenge in these revision petitions, it would be apposite to briefly touch upon the facts, that had led to the filing of the suit in O.S.No.134 of 2024.

(A) The above suit has been filed for the following reliefs :

i. For a declaration that the sale deeds dated 10.01.2023 executed by the defendants 1 to 12 registered as documents Nos.231 and 232 of 2023 in favour of the 15th defendant before the SRO, Katpadi, is null and void, non est in law and illegal;
ii. For a declaration that the sale deeds dated 10.01.2023 executed by the defendants 1 to 12 registered as documents Nos.233, 234 and 235 of 2023 to and in favour of the 14th defendant before the SRO, Katpadi are null and void, non-est in law and illegal;
iii. Consequently declare that the mortgage deed dated 19.01.2023 executed by the defendants 14 and 15 registered as Document No.424 of 2023 in favour of the 16th defendant before the SRO, Katpadi, is null, void, non est in law and illegal;
iv. For a mandatory injunction directing the defendants 1 to 12

to perform the Agreement to Sale dated 22.08.2017, registered as Document No.4293 of 2017 before the SRO, Katpadi, by executing and register the sale deed in favour of the plaintiff or its nominee in respect of the suit schedule property and hand over the vacant possession of the suit schedule property; failing which, this Hon'ble Court on behalf of defendants 1 to 12 may execute and register the sale deed in favour of the plaintiff or its nominee and hand over the possession to the plaintiff or its nominee;

v. Mandatory injunction directing the 13th defendant to release the original deeds of the suit schedule property to the plaintiff or its nominee on execution of sale deed of the suit schedule property in favour of the plaintiff or its nominee;

vi. Permanent injunction restraining the defendants 14, 15 and 16, their men, agents or anybody claiming under or through them from alienating, developing, dealing with and creating any encumbrances over the suit schedule property.

(B) The plaintiff would contend that they are engaged in Real Estate business and creating townships across Tamil Nadu. Within a period of 24 years, they have created a niche for themselves in the Real Estate business. That apart, they are also engaged in transportation and hospitality businesses, and they come under the umbrella of Sameera Group.

(C) The first defendant is a Real Estate development company under the flagship of Sahara Group. Defendants 2 to 12 are also part of the Sahara Group. The 13th defendant is the Securities and Exchange Board of India ['SEBI' in short], the 14th and 15th defendants are the subsequent purchasers and the 16th defendant is a mortgagee of defendants 14 and 15.

(D) In the year 2000, M/s.Sahara India Real Estate Corporation Ltd., [SIRECL] and M/s.Sahara Housing Investment Corporation Ltd., [SHICL] had collected deposits from the public through Optional Fully Convertible Debentures [in short 'OFCD']. This was held to be illegal by the 13th defendant [SEBI] who directed SIRECL and SHICL to refund the amounts so collected as deposits, together with interest at 15% to the respective parties.

(E) This order was taken up on challenge to the High Court of Bombay, which upheld the order of the SEBI, the 13th defendant.

(F) The matter was further taken up to the Hon'ble Supreme Court, and in the course of the proceedings, the Sahara Group of Companies had agreed to make available to SEBI, the original title deeds of unencumbered properties worth over Rs.20,000 crores. The Hon'ble Supreme Court had directed the Sahara Group to deposit the funds of the investors with the 13^{th} defendant. Pursuant to the orders of the Supreme Court, Sahara Group had deposited only Rs.5,120 crores with the 13^{th} defendant and failed to deposit the balance sum of Rs.17,400 crores. Thereupon, contempt proceedings were initiated and the promoters and Directors of Sahara Group of Companies were put behind bars for over 15 months and the proceedings are still pending.

(G) In the contempt proceedings, the Hon'ble Supreme Court had passed the following orders on various dates, which are provided below in a nutshell :

Date	Facts / Events in Contempt Petition
21.11.2013	The Hon'ble Supreme Court ordered freezing of the assets of Sahara Group of Companies.
04.06.2014	The Hon'ble Supreme permitted the Sahara Group to deal with and sell some of their assets, so as to enable them to fulfill the bail conditions. This order was conditional to the amounts collected by way of sale to be deposited to the credit of the deposit called 'SEBI – Sahara Refund Account' [hereinafter called 'Sahara Refund Account']
21.11.2013	The Hon'ble Supreme Court directs Sahara not to part with any property movable or immovable, until further orders. Later this order was modified permitting them to sell their properties, provided the sale consideration is not less than 90% of the circle rate value of the property and the sale consideration is to be deposited to Sahara Refund Account, less TDS and other applicable taxes.
15.06.2016	The 13th defendant [SEBI] issued public notices for auctioning lands measuring 69.998 acres or thereabouts located in various places at Brammapuram, Kangeyanallur Village, Katpadi Taluk, Vellore District. The reserved prices was fixed at the sum of RS.27,83,21,470/-
20.07.2016	A bid for Rs.42,01,00,001/-was provisionally accepted by the 13th defendant “subject to approval with a expressed condition that the bidder would not have any right or title over the property till its confirmation by the 13th defendant.
28.09.2016	The 13th defendant informs the Hon'ble Supreme that the 8 properties inluding the suit property had been attached by the Income Tax Department and could therefore, not be sold. They would inform the Hon'ble Supreme Court that the amounts received from the various bidders would be refunded back to them. (The plaintiff presumes that the amounts have been so refunded.)
21.10.2016	The second auction was directed to be conducted for 5 properties including the suit property. The auction was

Date	Facts / Events in Contempt Petition
	also subject to certain conditions and one such condition was that if the bid received did not exceed the one earlier received in the first auction, then the 13th defendant [SEBI] was free to finalise the sale and issue sale certificate to the highest successful bidder of the original / previous auction. In terms of this order, the suit property was re-auctioned by the 13th defendant through a public notice of sale. However, no bids were received and therefore, the initial bidder who had offered the bid value of Rs.42,01,00,001/- was declared as a successful bidder.
09.01.2017	The initial bidder (successful bidder) was called upon to deposit 25% of the bid amount and the balance was to be deposited in three equated monthly instalments. The initial bidder had failed to deposit the 25% of the bid amount and did not adhere to the revised guidelines. The 13th defendant had informed the said bidder that if a part of the bid amount was not paid within 5 days, the bid would fail and the offer would stand withdrawn.
07.03.2017	The 13th defendant informs the successful bidder that his bid stood withdrawn.
24.01.2020	After the offer is withdrawn/cancelled, the successful bidder hands over a cheque for the bid amount to the 13th defendant, which was accepted without prejudice. However, the cheque was dishonoured on deposit.
03.09.2024	Order came to be passed by the Hon'ble Supreme Court dismissing the applications filed by the initial bidder to resume his bid.

(H) This apart, the following dates provides the transactions / dealings that took place between the plaintiff and the defendants :

i. The Hon'ble Supreme, vide orders dated 11.07.2016, 03.08.2016 and 27.02.2017, has permitted the Sahara Group to alienate their properties.

ii. After the failure of the bidder to remit the balance sale consideration, in the year 2016-2017, the Sahara Group have intended to enter into Agreement to Sell (in short 'ATS') with the plaintiff for sale of various parcels of lands owned by them at Chennai, Madurai, Tirunelveli, Salem, Pondicherry, as also the suit property in Vellore District. Accordingly, on 22.08.2017, the plaintiff and the defendants 1 to 12 have entered into an ATS in respect of the suit property for a sale consideration of Rs.43 crores, and the plaintiff had made a part payment of Rs.10.0 crores 04.07.2017, and the same was acknowledged by the 13th defendant. The ATS is in compliance of the orders passed by the Hon'ble Supreme Court and the part consideration is already deposited to the Sahara Refund Account, by the plaintiff. The defendants 1 to 12 have handed over the original documents to the plaintiff. The plaintiff would submit that though the ATS stipulates that only Rs.4.30 crores was received as advance amount, the part consideration of Rs.10 crores paid by him, is lying in the designated account from the year 2017. As per the terms and conditions of ATS, the balance sale consideration was to be paid on or before 05.09.2017, upon fulfilment of certain terms and conditions. These conditions have been extracted by the plaintiff in paragraph Nos.7 of the plaint.

iii. On 31.08.2017, 18.09.2017 and 30.10.2017, the plaintiff requested the defendants 1 to 12 to indicate the details of remittance of income tax liabilities, to which, there is no response. The plaintiff, in the meanwhile, had reaffirmed their readiness and willingness to pay the balance sale consideration and to conclude the sale. In return, the Sahara Group had replied that any action on the sale cannot be finalised, as the matter is subjudiced before the Hon'ble Supreme Court. Meanwhile, the plaintiff was parallelly engaged in repeatedly meeting the representatives of the defendants 1 to 12.

iv. On 31.01.2018, Sahara Group furnished the full details and documents relating to all the transactions as also the ATS dated 22.08.2017 of he suit property along with the particulars of payment of the considerations to the 13th defendant.

v. On 08.06.2018, the 13th defendant acknowledges the receipt of this letter of Sahara Group dated 31.01.2018, and advised the Sahara Group to submit their Letter of Undertaking to the 13th defendant that the sale consideration will be paid to the Sahara Refund Account, and the original documents will be released directly to the buyer.

vi. On 29.01.2020 and 30.01.2020, Sahara Group reassures the plaintiff regarding their commitments to complete the transactions with the plaintiff.

vii. On 16.11.2021, an email was sent to the plaintiff by the Sahara Group intimating that the transactions relating to the suit property cannot be discussed as the matter was subjudice before the Hon'ble Supreme Court. In the said email, they had confirmed that the consideration amount received for sale of the properties at Madurai, Tirunelveli and Pondicherry from the Sameera Group (plaintiff) was reconciled.

viii. On 16.02.2022, through email, the plaintiff reaffirmed their readiness and willingness to proceed with the sale of the suit property.

ix. On 20.06.2022, the plaintiff agreed to await the orders of the Hon'ble Supreme Court regarding the sale of suit property.

x. On 15.12.2022, Sameera Group (plaintiff) issued a legal notice to the Sahara Group to execute the sale deeds in respect of the other properties where substantial sale consideration was paid. The suit property was not included in the said notice, since the Hon'ble Supreme Court was in seisin of the matter.

(I) The sale deeds in respect of the properties where the balance sale consideration had been paid and which is situated in Madurai and Tirunelveli was executed in favour of the plaintiff's group. It is the contention of the plaintiff that the terms of Agreement to Sell contemplated the settlement of income tax dues, for which purpose, they had been requesting the Sahara Group to provide them with details, which was also not being provided and the details in this regard has been extracted in paragraph No.15 of the plaint.

(J) Thereafter, on 07.01.2023, the plaintiff had filed applications before the Hon'ble Supreme Court in I.A.No.7219 of 2023 and I.A.No.7215 of 2023 to implead themselves in the contempt proceedings and also seeking leave of the Court to deposit the balance sale consideration of the suit property in Sahara Refund Account. The plaintiff had also enclosed the photocopies of the demand draft for the value of the suit property.

(K) When the matter was listed on 09.01.2023, the plaintiff counsel had the demand draft for Rs.33.0 crores on hand.

(L) Despite service of the notice in the said I.As on the Sahara Group, on 10.01.2023 and while the petition for impleading the plaintiff was pending, the Sahara Group had sold the properties to defendants 14 and 15. The intention of the defendants 1 to 12 was clearly malafide since they had not brought this to the notice of the Hon'ble Supreme Court, when the matter was listed on 09.01.2023, though it appears that the documents were executed on 06.01.2023. The malafides was further writ large since there is no reference to ATS executed between the plaintiff and the defendants 1 to 12 in respect of the very same property.

(M) The sale deed in favour of the defendants 14 and 15 appears to have been hastily entered into with malafide intention since in the document of sale so executed in favour of these defendants, there is no reference to the ATS entered into between the plaintiff and the defendants 1 to 12. Though this document is styled as an affidavit, it is more in tune with an agreement. These so called affidavits have been annexed to the sale deeds at the time of registration wherein it is stated that the ATS with the plaintiff had lapsed.

(N) The factum of this agreement dated 10.01.2023 between Sahara Group and defendants 14 and 15 were not brought to the notice of the Hon'ble Supreme Court.

(O) The plaintiff vide their communication dated 20.02.2023 had informed the 13th defendant about these illegal transactions and requested them not to hand over the original documents to defendants 14 and 15. Since further alienations and encumbrances in respect of the suit property was being admitted, the plaintiff had issued public notices dated 18.06.2024 in English daily as well as in vernacular daily informing about the ATS entered into by them with the Sahara Group and about the pendency of the matter before the Hon'ble Supreme Court.

(P) Thereafter, on 22.02.2023, the plaintiff had filed I.A.No.40383/2023 before the Supreme Court, seeking to declare the sale deeds and mortgage deeds (subject matter of the instant suit), as null and void and for a direction to the 13th defendant to release the original documents to the plaintiff and their nominees and accept the balance sale consideration and Rs.33.0 crores and also to direct the Sahara Group of Companies to execute the sale deed in their favour. These applications came to be disposed of with an observation that the plaintiff should initiate appropriate proceedings and that the same cannot be sought for before the Hon'ble Supreme Court.

(Q) On 19.01.2023, the 14th and 15th defendant had mortgaged the property to the 16th defendant and therefore, left with no other alternative, the plaintiff has approached the Court with the present suit for the relief set out supra.

4. After receiving notice in the suit, the defendants 1 to 15 have come forward to file applications for rejecting the plaint, the details of which had bee set out in paragraph No.2 supra.

5. The reasons given by the defendants 14 and 15 in I.A.No.7 of 2024, for rejecting the plaint, are herein below briefly set out :

(i) The Agreement to Sell (ATS) dated 22.08.2017 has been terminated.

(ii) Time limit for enforcement has come to an end

(iii) Reliefs are time barred.

(iv) The balance sale consideration not paid before 05.09.2017, as per the terms of the ATS.

(V) The right to sue has accrued in the year 2017, whereas the plaintiff has sought to enforce the same after over seven years of refusal. The plaintiff's contention that the details of income tax arrears have not be furnished and therefore, the balance sale consideration could not be paid, is contrary to the order of the Hon'ble Supreme Court dated 21.10.2016, and consequently, Clause 7.1 of the ATS was also incorrect.

(vi) The suit is barred as per Article 58 of the Limitation Act, as also Article 54 of the Limitation Act. Since the performance of obligation has been refused by Sahara Group as early as on 31.08.2017 itself.

(vii) The suit is vexatious and suffers from suppression of material details.

6. The defendants 1 to 12 have also sought to have the plaint in O.S.No.134 of 2024 rejected and the grounds on which they seek rejection, is more or less similar to the ones raised by the defendants 14 and 15. The other grounds canvassed by the defendants 1 to 12, apart from the ones stated supra are :

(a) The suit is bereft of valid cause of action and is based on illusory facts.

(b) The relief sought is based on the terminated Agreement to Sell, however without seeking a declaration to set aside the said termination.

7. Elaborate oral arguments were advanced on the side of the parties. The learned counsels appearing for the revision petitioners and the respondent have submitted a detailed written arguments in both these revisions. They are :

A) Written submissions of the revision petitioners in CRP.No.957 of 2025 are set out herein below :-

i. The petitioner would contend that the plaintiff had suppressed the fact that the consideration of Rs.43.0 crores arrived at in the ATS is inclusive of the income tax liabilities and statutory dues till the date of execution of the sale deed. The terms of the ATS further provides that the entire balance sale consideration had to be paid on or before 05.09.2017, which the plaintiff had failed to adhere to.

ii. The allegation of the plaintiff that they could not proceed further with the agreement was on the ground that the ATS stipulates that within

10 days from the date of receipt of income tax liability notice, the plaintiff should remit the demand amount is absolutely false. The plaintiff's further plea that since this demand notice has not been forwarded by the Sahara Group to him, the plaintiff is not able to clear the dues, is also false, since the total sale consideration of Rs.43.0 crores is inclusive of income tax liabilities and statutory dues.

iii. The agreement has clearly stipulated that time was essence of the contract and the plaintiff having not adhered to the time schedule, has not made out a cause of action for the suit.

iv. The revision petitioners would also submit that the allegations of fraud pleaded in the plaint was totally false. They would submit that the Agreement to Sell [ATS] has been entered into on 22.08.2017, and as per the terms of this document, the total sale consideration was to be paid by 05.09.2017, however, an amount of Rs.10.0 crores alone had been paid. That apart, ATS clearly stated that if the balance sale consideration is not received on or before 05.09.2017, the ATS would automatically stand terminated. Therefore, the cause of action to sue arises on 06.09.2017, and as per Article 54 of the Limitation Act, the suit for specific performance ought to have been filed within three years from the date fixed for performance and not on the date when the plaintiff had the knowledge that the performance was refused. The suit filed on 18.09.2024 is therefore deemed to have been terminated. The revision petitioners relied upon the following judgments in support of their arguments that the suit is barred by limitation :

a) ***Dahiben Vs Arvindbhai Kalyanji Bhanusali [AIR 2020 SC 3310];***

b) ***Janardhanam Prasad Vs Ramdas [(2007)15 SCC 174];***

c) ***Vidyanadam and Ors. Vs Vairavan [(1997) 3 SCC 1]***

d) ***T.L.Muddukrishana and another Vs Lalitha Ramachandar Rao [(1997) 2 SCC 611].***

v. It is also the contention of the revision petitioners that a suit for mandatory injunction without seeking specific performance, is not maintainable. In support of this, the revision petitioners/defendants relied upon the following judgments :

a) ***Mujeeb Rehman Vs Mohd. Nabi [2017 SCC OnLine Del 11393]***

b) ***K.S.Subramaniam Vs S.Munuswamy [2000 (II) CTC 417]***

c) ***Atma Ram Vs Charanjit Singh*** [Unreported Judgment of Hon'ble Supreme Court in SLP(C) No.27598 of 2016.

vi. The relief of declaration is not maintainable inasmuch as it is claimed on the basis of ATS, which is no longer relevant. That apart, the sale in favour of defendants 14 and 15 had taken place after the termination of the ATS.

vii. The suit is barred by limitation from the agreed date of performance i.e., on 05.09.2017. The suit is instituted based on the illusory cause of action. In support of this contention, the revision petitioners relied upon the judgment of this Court in ***Mrs.Vasumathi H.Shah Vs Mrs.Pushpa Raju*** reported in **[2015-3-L.W.875]** and ***S.Saraladevi Surana Vs G.S.Sundararaj*** **[Judgment dated 01.07.2021 in**

A.S.No.371 of 2005]

B) Written submissions of the revision petitioners in CRP.No.958 of 2025 :

i. Time is the essence of the contract and on 05.09.2017, since the balance sale deed had not been paid, the ATS stood automatically cancelled.

ii. The suit is barred under Article 58 of the Limitation Act, since the time for performance is three years from the agreed date / cause of action. In the instant case, the cause of action has arisen on 05.09.2017, but the suit has been filed nearly seven years after the agreed date. They would rely upon the judgment in ***State of Punjab Vs Balkaran Singh*** reported in **[(2006) 12 SCC 709]**.

iii. In so far as the claim of the plaintiff/respondent that the suit is not barred by limitation on the strength of the alleged email communications exchanged by the plaintiff, the revision petitioners would contend that mere correspondence by way of writing letters, reminders, etc., will not extend the period of limitation, as they cannot be considered as a valid acknowledgement. In support of this argument, the revision petitioners relied on ***M/s.B & T AG Vs Ministry of Defenc***e **[2023 SCC OnLine SC 657]**. Reliance was also placed on the judgments in ***Usha Devi & Others Vs. Ram Kumar Singh & Others*** **[2024 SCC OnlieSC 1915]** .

iv. They would also contend that the plaint does not disclose a cause of action. In support of this contention, they would rely upon the judgments in ***T.Arivanandam Vs T.V.Sathyapal and another*** **[(1977) 4 SCC 467]**; ***Dahiben Vs Arvindbhai Kalyanji Bhanusali*** **[(2020) 7 SCC 366]**; ***Saleem Bhai and others Vs State of Maharashtra and others*** **[(2002) 1 SCC Online SC 1232]**; ***Azhar Hussain Vs Rajiv Gandhi*** **[1989 Supp SCC 315]** and the judgment of this Court in ***V.Kumar and others Vs R.Natarajan and others*** **[CRP.No.1624 of 2018]**.

v. The suit is filed based upon the terminated sale agreement is without seeking a relief of declaration that the suit sale agreement is valid, subsisting and binding. Hence, the plaint is sought to be rejected as the same in not maintainable in the eye of law.

vi. The defendant/revision petitioners would contend that the the suit is barred as per Section 41(h) of the Specific Relief Act, which provides that an injunction cannot be granted when equally efficacious remedy can be obtained by any other usual mode of proceeding. Therefore, the plaintiff/respondent ought to have filed a suit for specific performance and not a suit for mandatory injunction. In support of this argument, the revision petitioners would rely upon ***K.S.Balasubramaniam Vs S.Munuswamy*** [Judgment of this Court in CRP.No.3532/1999] and ***Rajendra Kumar Vs Mahendra Kumar Mittal*** **[AIR 1992 All.55]**.

vii. In addition to above, the defendants 14 and 15 would also plead that relief of mandatory injunction sought by the plaintiff/respondent is a clear disobedience of the order passed by the Hon'ble Supreme Court in **Securities and Exchange Board of India Vs Sahara India Real Estates Corporation Limited and Others** reported in **[(2014) 8**

SCC 751]. They would submit that there is no malafide intention on the part of the defendants 14 and 15, in purchasing the suit property and they have only complied with the orders of the Hon'ble Supreme Court reported in **[(2014) 8 SCC 751]**. These defendants would draw a distinction between the ATS entered into between the plaintiff and defendants 1 to 12 as a mere contractual arrangement for sale, whereas, the sale deed executed in their favour is a concluded contract, where there is transfer of title and therefore, the sale deed executed in their favour had superseded the ATS entered with the plaintiff. Therefore, the defendants 14 and 15 would seek to have the plaint rejected.

C) Written Submissions of the respondent/plaintiff:

8. The plaintiff / respondent on the other hand have filed their written submissions contending that a mere perusal of the plaint and the plaint documents would clearly establish a cause of action for instituting the suit in question, and the argument of the defendants / revision petitioners herein

that the plaint lacks cause of action, is totally misconceived. The plaintiff has tabulated the date particulars and the corresponding plaint documents to highlight the fact that the plaintiff has come to Court with a defined and definite cause of action and well within the period of limitation. The details are as below :

Sl. No.	Date	Particulars
1.	22.08.2017	A registered Agreement to Sell for the Vellore property was executed between respondent and M/s.Sahara Groups for Rs.43 crores.
2.	31.08.2017 to 01.07.2022	The respondent repeatedly requested Sahara Group for details to remit Income Tax liabilities, with no response and emails sent by respondent to them to come forward for the execution of sale deed.
3,	31.01.2018 & 08.06.2018	Sahara Group furnished transaction details to SEBI, which aknowledged receipt and requested an undertaking for deposit in the SEBI-Sahara Refund Account
4	01.11.2021	Sahara Group affirmed that further action on the suit schedule property awaited the Supreme Court's direction.
5	16.11.2021	Sahara Group reiterated its position in an email, confirming the need to await the Hon'ble Supreme Court's direction.
6	16.02.2022	The respondent reiterated readiness to pay the balance consideration for the suit schedule property.
7	20.06.2022	The respondent agreed to await Supreme Court orders regarding the suit schedule property.
8	15.12.2022	Respondent issued a legal notice to Sahara Group, requesting the execution of sale deeds for properties in Puducherry,Tirunelveli and Madurai, while acknowledging the Vellore matter was sub-judice.

Sl. No.	Date	Particulars
9	07.01.2023	Respondent filed I.A.Nos.7215/2023 and 7219/2023, praying for impleading and permission to deposit the remaining Rs.33 crores for the Vellore property, along with execution of sale deeds in its favour.
10.	20.02.2023	The respondent informed the SEBI of the fraudulent sale to defendants 14 and 15, urging non-release of the original title deeds.
11.	22.02.2023	The respondent prayed to declare the sale deeds in favour of the petitioners null and void before the Hon'ble SCI.
12.	03.09.2024	Hon'ble SCI has directed the respondent to seek redressal through appropriate legal proceedings.

It is the contention of the plaintiff that as per the terms of ATS, though the agreement would read that the balance sale consideration, less TDS should be paid on or before 05.09.2017, however, the said payment is subject to the fulfilment of the terms and conditions mentioned in the ATS. The terms and conditions that had to be complied with were :

(a) joint survey of the lands and demarcation of the boundaries of lands and fencing them;

(b) Special Power of Attorney to be executed by Sahara Group of Companies in favour of the plaintiff for follow-up action with the revenue officials etc.,

(c) Income tax dues have to be settled. The plaintiff have time and again reiterated their readiness and willingness to proceed with the sale and it was only the defendants 1 to 12 who had been putting off the same, on the ground that the matter was subjudice before the Hon'ble Supreme Court. Though the plaintiff had required the defendants to furnish the remittance of income liability on 31.08.2017, 18.09.2017 and 30.10.2017, the same had been furnished by the defendants 1 to 12, only on 31.01.2018.

(d) Period of limitation has been extended by reason of the following written acknowledgements :

i. A email dated 30.01.2020 was sent to the plaintiff from Sahara Group, where they have reiterated that the commitment to ensure the transaction with Sameera Group (plaintiff's GrouP) goes through. They have also specifically informed the plaintiff that with reference to the suit property, they have instructed the lawyers to appraise the Hon'ble Supreme Court about the fact that the said property is sold to the plaintiff and a registered ATS is in place and that the advance money for the said sale had been received by them two years ago.

ii. Once again by email dated 01.11.2021, and 16.11.2021, a reference has been made to the suit property with a statement that since the matter is subjudice before the Hon'ble Supreme Court, they would await the directions of the Hon'ble Supreme Court for further course of action.

Therefore, it is their contention that the period of limitation has been extended.

(e) That apart, a mere reading of the plaint would set out the cause of action.

The petition to reject the plaint has been filed by the defendants only on grounds that it lacks cause of action and is barred by limitation. However, a reading of the plaint and the plaint documents proves that the plaint contains sufficient cause of action and also the suit is not barred by limitation. The plaintiff/respondent in support of their arguments, had relied on the following judgments :

(1) ***Chhotanben and Another Vs Kirthibhai Jalkrushnabhai Thakkar* [(2018) 6 SCC 422]**;

(2) ***Urvashiben and another Vs Krishnakant Manuprasad Trivedi* [(2019) 13 SCC 272]**; and

(3) ***R.Gnanprakasam Vs P.I.Mohammed Kutty & Others* [(2021) SCC Mad 2023]**.

Discussion :

9. From the contents of the applications filed for rejecting the plaint and the written submissions that have been submitted by the revision petitioners in both the revisions, the grounds on which the plaint in O.S.No134 of 2024 is sought to rejected are that the suit is barred by limitation and therefore, liable to be rejected under Section 11(d) of Section 151 CPC. Secondly, the suit lacks cause of action and the cause of action pleaded is an illusory one. Thirdly, the suit for mandatory injunction without seeking specific performance is liable to be dismissed. Apart from

these contentions, the revision petitioners in CRP.No.957 of 2025, who are the defendants 1 to 12, has also contended that the failure to seek a declaration that the termination of the ATS is null and void is fatal to the case on hand.

10. Before proceeding to discuss the aforementioned issues, certain timelines as provided in the plaint and the documents filed along with it, which would be germane for the discussion, considering the fact that in an application for rejection of plaint, the Court should be guided by the contents of the plaint and the documents filed along with the plaint, and not by any extraneous pleadings or documents. Accordingly, only the relevant dates and events are stated below :

(a) On 15.06.2016, a public notice for e-auction of 8 properties including the suit schedule property was issued.

(b) On 20.07.2016, a provisional bid of Rs.42,01,00,001/- was accepted by the SEBI, subject to approval, with no right of title, until confirmation.

(c) On 28.09.2016, SEBI informed the Supreme Court that out of 8 properties, 6 properties including the suit schedule property are attached by the Income Tax Department.

(d) On 21.10.2016, the Hon'ble Supreme Court, after noting the Income Tax Department's non-opposition to the auction, directed a second auction for 5 properties, including the property at Vellore, with reserve price set as the highest bid from the first auction.

(e) On 07.03.2017, the successful bidder failed to deposit 25%and the offer was withdrawn.

(f) On 22.08.2017, an Agreement to Sell [ATS] registered as Document No.4293/2017 in SRO, Katpadi for the sale of suit schedule property was entered between the respondent/plaintiff and the petitioners/defendants 1 to 12 i.e., Sahara Group for Rs.43.0 crores after depositing a sum of Rs.10,00,00,000/- in the SEBI-Sahara Refund Account No.012210110003740 on 04.07.2017.

(g) On 31.08.2017 to 01.07.2022, the petitioners 1 to 12 / Sahara Group ignored the request of the respondent to furnish the details for remitting Income Tax liabilities, and affirmed that the respondent is ready and willing to pay the balance consideration and conclude the sale.

(h) On 01.11.2021, Sahara Group affirmed that they are awaiting directions of the Apex Court on the suit schedule property.

(i) On 16.11.2021, Sahara Group reiterated its position in an email that they are awaiting the Apex Court directions.

(j) On 16.02.2022, the respondent/plaintiff reiterated its readiness and willingness to pay the balance sale consideration for the suit schedule property.

(k) On 20.06.2022, the respondent/plaintiff agreed to abide by the Supreme Court orders regarding the suit schedule property.

(l) On 15.12.2022, the respondent/plaintiff issued a legal notice to the petitioners/defendants 1 to 12 requesting the execution of sale deeds of properties in Puducherry, Tirunelveli and Madurai, while acknowledging the suit schedule property was sub-judice.

(m) On 15.12.2022, the defendants 1 to 12 executed a Board Resolution authorising their officials to negotiate and deal with the interested parties regarding the sale of the property at Vellore. (This Board of Resolution is dated the same day on which the legal notice was issued by the plaintiff to the defendants 1 to 12.

(n) On 06.01.2023, five sale deeds for the suit schedule property was executed by the defendants 1 to 12 in favour of the defendants 14 and 15 (the petitioners in CRP.No.958 of 2025) misleading the SRO, Katpadi with a letter dated 08.06.2018 issued by the 13th defendant-SEBI in favour of the plaintiff's transaction with the Sahara Group, when the I.As are pending before the Hon'ble Supreme Court.

(o) On 07.01.2023, the respondent/plaintiff filed I.A.Nos.7215/2023 and 7219/2023 before the Hon'ble Supreme Court seeking to implead themselves in the Contempt Proceedings and seeking permission to deposit the remaining Rs.33 crores payable for the suit schedule property. They also sought a direction for the execution of sale deeds in its favour.

(p) On 10.01.2023, the defendants 1 to 12 along with the defendants 14 and 15 fraudulently executed a Deed of Affidavit along with a letter said to be issued by the 13th defendant-SEBI, as if they had authorised the sale in favour of defendants 14 and 15.

(q) On 10.01.2023, all the five sale deeds are registered in favour of the defendants 14 and 15, before the SRO, Katpadi. In addition, affidavits were filed by the defendants 1 to 12 along with defendants 14 and 15. In the five sale deeds, there is no reference to the ATS dated 22.08.2017 executed in favour of the plaintiff. However, in the affidavit dated 10.01.2023 it is stated that the ATS stood nullified, as the same is superseded by the execution of sale deeds in favour of the defendants 14 and 15.

(r) Thereafter, on 22.02.2023, the plaintiff filed applications before the Hon'ble Supreme Court seeking to declare the sale deeds executed in favour of the defendants 14 and 15 as null and void.

(s) On 03.09.2024, the Hon'ble Supreme Court disposed of the said applications, leaving it open to the plaintiff to take appropriate proceedings for redressing their grievance as permissible by law. The Hon'ble Supreme Court had clarified that no comments on merits are made, and that all the pleas and contentions were left open

(t) It is based on this order dated 03.09.2024, the plaintiff has come forward with the institution of suit in O.S.134 of 2024 on 18.09.2024, which is now sought to be rejected by the impugned applications.

11. From the above narration, the following facts emerge :

(a) The plaintiff has entered into an Agreement to Sell (ATS) with the defendants 1 to 12. As per the terms of the said agreement in Clause 3.3, the sale was to be concluded after the balance sale consideration of Rs.33.0 crores, less TDS 1% of the total sale consideration was paid on or before 05.09.2017, **on fulfilling the terms and conditions mentioned in the ATS.** Therefore, a reading of Clause 3.3 would indicate that the payment of the balance sale consideration is subject to certain terms and conditions being fulfilled.

(b) The first of such term appears to be joint survey which was to be conducted within 7 days from the date of execution of the agreement, at the cost of the purchasers for demarcating the boundaries and fencing the same. It is also made clear that during the physical measurement if a shortfall is found, the sale consideration was to be proportionately adjusted (Clause 4).

(c) In order to give effect to Clause-4, the Clause-6 also had to be complied with i.e., the execution of Special Power of Attorney for enabling the purchasers to fence the land and to approach the concerned authorities for obtaining requisite permission and consent for developing the lands. Clause 6.5 of the ATS also clarifies that the right to commence the development work (not the survey and measurement), was only on receipt of the balance sale consideration. Therefore, a distinction has been clearly drawn regarding survey and demarcation and development of the property.

(d) Yet another condition that had to be fulfilled is Clause-7, which deals with the Income Tax Liability Demand Notice.

(e) Therefore, from a cursory reading of these Clauses in the ATS, it *prima facie* appears that the time for payment of the balance sale consideration fixed on or before 05.09.2017 is subject to the fulfilment of the above Clauses and therefore, it cannot be stated that time i.e, 05.09.2017 is the essence of the contract and is non-negotiable.

(f) No doubt, the defendants would place great emphasis on Clause 11.2 of the ATS, wherein it is stated that in the event of the seller not receiving the balance sale consideration as per Clause 3.2, the agreement would automatically stand terminated without any acts or deeds from either parties.

(g) As discussed supra, Clause-3.2 with reference to the date of the payment of the balance sale consideration is qualified by a further statement that it is subject to the fulfilment of the terms and conditions in the ATS.

These are all the issues which can be dealt with only during the trial, and the suit cannot at the threshold be rejected. The plaintiff has made out a cause of action and placed it for the consideration of the Court. Therefore, the contention of the revision petitioners / defendants 1 to 12, 14 &15 that the plaintiff has come forward to file a suit on the basis of illusory cause of action cannot be countenanced.

12. In the judgment reported in ***Urvashiben and Another Vs Krishnakant Manuprasad Trivedi*** reported in **[(2019) 13 SCC 272]**, the Hon'ble Supreme Court has held as follows :

> *"**11.** It is submitted that for the purpose of considering the application under Order 7 Rule 11(d), plaint averments in the plaint are to be seen and no further ground can be a ground for rejection of the plaint, under Order 7 Rule 11(d). It is*

submitted that whether, from the averments in the plaint in a given case, the plaint is to be rejected or not under Order & Rule 11, is to be considered with reference to facts of each case and from the case on hand, it cannot be said that the suit is barred by limitation, only by looking at the averments in the plaint."

13. The same principle is once again reiterated by the Hon'ble Supreme Court in Chhotanben and another Vs Kiritbhai Jalkrushnabai Thakkar and others [(2018) 6SCC 422], and it is relevant to extract paragraph No.12, which reads as follows :

> *"**12.** What is relevant for answering the matter in issue in the context of the application under Order VII Rule 11(d), is to examine the averments in the plaint. The plaint is required to be read as a whole. The defence available to the defendants or the plea taken by them in the written statement or any application filed by them, cannot be the basis to decide the application under Order VII Rule 11(d). Only the averments in the plaint are germane.*

This is the dictum that has been followed by this Court as well. The document that have been filed along with the plaint and the contents of the plaint does make out a cause of action. Therefore, the rejection of the plaint on the ground that there is illusory cause of action has to be necessarily be rejected.

14. The next point upon which the emphasis has been placed by the revision petitioners is that the suit is barred by limitation. This argument is based upon Clause-3.3 of the ATS. The revision petitioners / defendants 1 to 12, 14 & 15 would contend that by virtue of Clause-11.2, the agreement was terminated 05.09.2017 and the suit filed 7 years thereafter, is clearly barred by limitation. That part, they would submit that this would also amount to refusal on the part of the defendants 1 to 12 to execute the sale deed. This argument *prima facie* does not appears to be correct inasmuch as Clause-3.3 as discussed supra is a conditional one. That apart, it is seen from the various communications between the plaintiff and defendants 1 to 12, that till the year 2021, the plaintiff has been led to believe that the transaction would be proceeded with. In fact, in an email dated as latest as on 24.08.2021, the defendants 1 to 12 has stated as follows :

> *"Taking reference to our on-going previous communication and discussion through our authorized representative S.Dwarakanath, we refer this communication to the sale purchase transactions for the land parcels at Tirunelveli, Madurai, Pondicherry, M/s.Sameera Group entered in the year 2016.*
>
> *Given that the wrath of pandemic is practically getting over after series of lockdowns and as businesses are coming back to normalcy – we through this email, call upon you to kindly come forward and conclude the sale transactions of these land parcels as the same has been long pending (transaction initiated in the Year 2016).*
>
> *Also attached is the scan copy of the letter received from SEBI for your reference, the copy of which was shared with you earlier, pertaining to the point of availability of original sale deeds.*
>
> *We look forward to an early response."*

By email dated 06.10.2021, the defendants 1 to 12 have made the following statement :

> *"Hope all good at your end. It is very surprising to note that we have not yet heard from you with reference to our email sent on 24 Aug 2021. Further to our email communication, we note that most of the businesses across India have resumed back to normalcy and operations have started seamlessly after the Covid-19 Second lockdown.*
>
> *As time has been the essence for the closure of the deal and to save time-at the cost of being repetitive; we through this email would like to mention again on the*

reservations you have voiced multiple times in the past, the following 02 issues being :

- *release of original title deed from SEBI issue and*
- *persistence of Income Tax Demand / NOC of IT Dept.*

Our response being:

- *Original Title deeds with SEBI and its release : we have already clarified in our last email the stand of SEBI along with the scan copy of the letter have bee duly shared and*

- *For Income Tax : (Pls refer our communication dated 16 Jan 2020) – according to us, it is no longer a valid attachment and to this effect we shall provide indemnity similar to what we have provided in multiple land sale consideration across India."*

Further, in email dated 16.11.2021, the defendants 1 to 12 have reiterated the need to await the directions of the Hon'ble Supreme Court. The legal notice of the plaintiff dated 15.12.2022 did not evoke any response, except the fact that a Board Resolution of the same date was executed by the defendants 1 to 12, authorising the official to negotiate and enter into sale deeds in respect of the property at Vellore. This clearly indicates that as on 15.12.2022, the sale of suit property was still at the negotiation stage. After the plaintiff moved the Supreme Court on 06.01.2023 for impleading themselves in the contempt proceedings, by filing I.A.No.7215 of 2023 and I.A.No.7219 of 2023, and seeking to deposit the remaining Rs.33.0 crores, the defendants 1 to 12 appeared to have executed five sale deeds in favour of defendants 14 and 15 dated 06.01.2023, registered on 10.01.2023.

15. A reading of the plaint would clearly set out the sequence of events which culminated in filing of the suit and the plaint is also accompanied by various correspondences/documents. Therefore, *prima facie*, from a reading of the plaint, the plaintiff has given several explanations for the time lag between the alleged date of performance i.e., on 05.09.2017 till September 2024, when the suit was filed before the Principal and District Sessions Judge at Vellore.

16. Limitation is a mixed question of facts and law and therefore, the plaintiff should be given an opportunity to explain the delay in the form of evidence. Article 54 of the Limitation Act governs the period of limitation for instituting a suit for specific performance, which is three years from (a)

the date fixed for performance; or (b) If no such date is fixed, then from the date on which the plaintiff has noticed that the performance is refused. As narrated supra, the defendants 1 to 12 have sent an email on 16.11.2021 informing the plaintiff that insofar as the property in Vellore (suit property) is concerned, they were awaiting directions of the Hon'ble Supreme Court. Therefore, even in the month of Nov.2021, there has been no refusal on the part of the defendants to proceed with the ATS. The plaintiff thereafter sent a letter on 16.02.2022 informing the defendants 1 to 12 that they are ready to pay the balance sale consideration, followed by another letter dated 20.06.2022 agreeing to abide by the orders passed by the Hon'ble Supreme Court with reference to the suit schedule property. This was followed by a legal notice on 15.12.2022, to which, there has been no response on the part of the defendants 1 to 12. Even when I.A.No.7219 of 2023 and I.A.No.7215 of 2023 was filed by the plaintiff before the Hon'ble Supreme Court seeking to implead themselves in the proceedings and seeking permission to deposit the remaining sum of Rs.33.0 crores, the defendants 1 to 12 have not brought to the notice of the Hon'ble Supreme Court that the sale had already been executed in favour of defendants 14 and 15, and it is only this sale deed that can be taken as a refusal on the part of the defendants 1 to 12 to perform their part of obligation under the ATS. Therefore, from the language of Article 54 of the Limitation Act, the execution of the sale deed in favour of defendants 14 and 15 could be construed as a refusal on the part of defendants 1 to 12 to abide by the terms of ATS and the suit having been filed in September 2024, it is well within the period of limitation. These are the facts which no doubt have to be proved during evidence and therefore if the plaintiff is non-suited at the threshold, it would result in a grave prejudice to the plaintiff.

17. In the judgment of the Hon'ble Supreme Court in ***Urvashiben and another Vs Krishnakant Manuprasad Trivedi***, the Hon'ble Supreme Court was considering a case where a suit for specific performance was filed 25 years after the execution of the contract and the plaint, it was stated that when the plaintiff had visited the suit property on 25.05.2017, he had come to learn that the property had been sold to a third party. Placing reliance on

Article 54 of the Limitation Act, the plaintiff had argued that the period of three years have to be calculated from the date of refusal namely the date of the plaintiff visiting the site, on which date, the defendant therein had refused to execute the sale deed. The Hon'ble Supreme Court has observed as follows :

> *11. It is fairly well settled that, so far as the issue of limitation is concerned, it is a mixed question of fact and law. It is true that limitation can be the ground for rejection of plaint in exercise of powers under O.VII R.11(d) of the CPC. Equally, it is well settled that for the purpose of deciding application filed under O.VII R.11 only averments stated in the plaint alone can be looked into, merits and demerits of the matter and the allegations by the parties cannot be gone into. Article 54 of the Limitation Act, 1963prescribes the limitation of three years, for suits for specific performance. The said Article reads as under :*

Description of suit	***Period of limitation***	***Time from which period begins to run***
54. Specific Performance of a contract	*3 years*	*The date fixed for the performance, or, if no such date is fixed, when the*

Description of suit	***Period of limitation***	***Time from which period begins to run***
		plaintiff has notice that performance is refused.

From a reading of the aforesaid Article, it is clear that when the date is fixed for performance, limitation is three years from such date. If no such date is fixed, the period of three years is to be computed from the date when the plaintiff, has notice of refusal. When rejection of plaint is sought in an application filed under O.VII R.11, same is to be considered from the facts of each case, looking at the averments made in the plaint, for the purpose of adjudicating such application.

Even in the case on hand, there is nothing to show that the defendants 1 to 12 have refused to perform their obligation under the ATS, earlier to this sale deed. Therefore, the second ground for rejecting the plaint is also not available to the defendants/revision petitioners.

18. As regards the third contention that the suit for mandatory injunction would not lie and it is only a suit for specific performance that

would lie, in view of the provisions of Section 41(h) of the Specific Relief Act. In this regard, Section 41(h) deals with a case where an injunction cannot be granted where there is a equally efficacious relief. In the instant case, the plaintiff seeks a mandatory injunction against the defendants 1 to 12 to execute and register the sale deed in their favour and to hand over possession of the property. The relief is not couched in the form of a prohibitory order / order of restraint. On the contrary, it is couched in the form of a specific performance of the ATS. Therefore, the revision petitioners / defendants cannot take refuge under this Section. Reliance upon the judgment in ***K.S.Subramaniam Vs S.Munuswamy [2000 (II) CTC 417]***, is totally misconceived. That was a case where the purchaser in an Agreement to Sell had moved a suit for injunction restraining the defendants from alienating the suit property, without seeking for specific performance. The learned Judge has observed as follows :

> *" 17. .... For the grant of an injunction, whether permanent or temporary, the grounds are entirely different. The plaintiff will have to show a prima*

facie case, balance of convenience and also irreparable injury for the grant of temporary injunction. In the case of perpetual injunction, provisions of Section 38 of the Specific Relief Act provide for the same. Section 38 of the Act also will have to be considered along with Section 41 of the Act. While considering the grant of temporary injunction, if the Court feels that prima facie, the suit itself is not maintainable since the decree for permanent injunction cannot be granted in view of the bar under Section 41(h) of the Act, it cannot be said that the plaintiff has got a prima facie case."

However, the facts in the instant case is totally different. In this case, the plaintiff in effect seeks for specific performance though the language is couched in the form of mandatory injunction. This is also an issue that has to be settled through evidence and arguments, after the parties have completed their pleadings and filed their relevant documents. Therefore, the rejection of the plaint on this ground is also not maintainable.

19. The other point that has been canvassed for rejecting the plaint by

the defendants is that the plaintiff, whose agreement had been terminated has not sought for a declaration that the termination is wrong. This is yet another issue that has to be dealt with after the pleadings are completed and evidence is let in. As already discussed, the defendants in order to rely upon the provision of Clause-11.3 of the ATS, has to also prove their obligation under Clause-11.3 has been performed by them, which action requires the parties to provide evidence.

20. Admittedly, the claim of declaration to declare the sale deeds as null and void is very much maintainable. Therefore, even on this score, the defendants cannot succeed.

21. The learned I Additional District and Sessions Judge, Vellore has considered all these facts in detail, as also the pleadings and documents filed by the plaintiff, to arrive at a conclusion that the plaint cannot be rejected at this stage. In her order, the learned Judge has also held that the plaint cannot be rejected in part. If the suit is maintainable in respect of one

relief, then the suit cannot be rejected in toto. I see no reasons to hold otherwise, and accordingly, both the civil revision petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

28.05.2025

Index : Yes/No
Internet :Yes/No
Neutral Citation : Yes/ No
ds/shr

To:

1. The I Additional District & Sessions Judge
   District Court, Vellore.

2.The Section Officer
   V.R.Section, High Court, Madras.

P.T.ASHA, J.,

ds/shr

C.R.P.Nos.957 & 958 of 2025
and CMP.Nos.5528 & 5522 of 2025

28.05.2025