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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.1304 of 2025

Kushal Kumar Ranka

... Petitioner

Vs.

B.Shanmugam

... Respondent

Prayer: Civil Revision Petition filed under Section 115 of CPC, to set aside the order dated 02.12.2024 in O.S.SR.No.7777 of 2023 passed by the learned Principal Subordinate Judge, Kancheepuram and to direct the learned Principal Subordinate Judge, Kancheepuram to number the suit.

For Petitioner : Mr.M.V.Seshachari

For Respondent : No appearance

ORDER

The plaintiff, aggrieved by the rejection of the plaint under Order VII Rule 11(d) of CPC, even at the stage of registration of the suit, is the revision petitioner.



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2.I have heard Mr.M.V.Seshachari, learned counsel for the revision petitioner. Despite service, the respondent neither appeared in person nor through counsel.

3.The plaintiff filed a suit in O.S.SR.No.7777 of 2023 seeking a preliminary decree to be passed, based on a mortgage executed by the defendant for recovering a sum of Rs.6,38,416/-, together with interest at 24% per annum on the Rs.1,50,000/-.

4.The trial Court entertained a doubt regarding the maintainability of the suit on the ground of limitation and has chosen to reject the plaint, even before the suit was numbered, finding that the suit claim was barred by the law of limitation.

5.Mr.M.V.Seshachari, learned counsel for the revision petitioner would submit that the defendant had executed a registered mortgage deed on 23.11.2009 in favour of the plaintiff and therefore, the plaintiff has 12 years time, that is, the suit could have been filed based on the mortgage on



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or before 22.11.2021. He would further state that is now well know that right from March 2020 onwards, the entire country suffered on account of Covid pandemic and the Hon'ble Supreme Court has passed slew of orders, exempting/extending limitation for filing of fresh claims. According to the learned counsel for the petitioner, the trial Court has miserably failed to properly appreciate the true import of the latest decision on Covid pandemic and limitation in *In Re: Cognizance for Extension of Limitation*, in *Suo Motu Writ Petition (C) No.3 of 2020* dated 10.01.2022.

6.Referring to the said decision, the learned counsel for the revision petitioner would submit that the trial Court has failed to appreciate that the suit filed was well within time and the Hon'ble Supreme Court has specifically extended limitation by 568 days in terms of clause 5(I) of the said order and the plaintiff has filed the suit within 476 days and therefore was very much in time. He would also invite my attention to clause 5(III) where the Hon'ble Supreme Court held that when the actual balance period of limitation remaining was greater than 90 days, then it is only the longer period that would apply.



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7.The trial Court, interpreted the said decision of the Hon'ble Supreme Court to mean that the plaintiff had the benefit of only 90 days from 01.03.2022 which expired on 29.05.2022 and during the Summer Vacation and therefore, the plaint ought to have been filed on or before 01.06.2022. Consequently, the trial Court held that the plaint filed on 19.06.2023 is barred by limitation and beyond the period extended by the Hon'ble Supreme Court. It would be relevant to extract the concluding portion of the said decision of the Hon'ble Supreme Court:

“5. Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. No. 21 of 2022 with the following directions:

I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasijudicial proceedings. 4

II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.

III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation



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remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.”

8.In terms of clause 5(I), the Hon'ble Supreme Court excluded the period begin 15.03.2020 and ending 28.02.2022 for all purposes of limitation, before in respect of all judicial and quasi-judicial proceedings.

9.In terms of clause 5(II), the Hon'ble Supreme Court held that balance period of limitation that would remain as of 03.10.2021, if any, would be available with effect from 01.03.2022.

10.In terms of clause 5(III), the Hon'ble Supreme Court held that wherever limitation had expired between 15.03.2020 and 28.02.2022, notwithstanding the balance period of limitation that remained, an additional 90 days from 01.03.2022 would be available and further held that if the actual balance period of limitation that remains as on 01.03.2022 was greater than 90 days, then the longer period alone would apply.



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11.The present case would squarely fall under clause 5(III) of the order of the Hon'ble Supreme Court. As already discussed, the limitation for filing the suit would have expired in the normal course on 22.11.2021. Therefore, as laid down by the Hon'ble Supreme Court, notwithstanding the balance period of limitation that is available to the plaintiff, the plaintiff would have the benefit of limitation period of 90 days from 01.03.2022. The Hon'ble Supreme Court did not stop there and it went on to hold that when the actual balance period of limitation remaining with effect from 01.03.2022 is greater than 90 days, then the plaintiff would have the benefit of the longer period. After exempting the period from 15.03.2020 to 28.02.2022, giving the benefit of the exclusion from limitation, if there is still a period of limitation remaining are available, then the plaintiff is entitled to the benefit of the said remaining period, which is an excess of 90 days.

12.Earlier, by order dated 23.09.2021, the Hon'ble Supreme Court extended the period of limitation in all proceedings before Courts and Tribunals with effect from 15.03.2020 to 02.10.2021 and by final order



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dated 10.01.2022, the period from 02.10.2021 has been further extended to 28.02.2022. The plaintiff ought to have filed the suit on 22.11.2021. If the period from 15.03.2020 to 22.11.2021 is excluded, the plaintiff has the benefit of 618 days, which has to be made available to the plaintiff from 01.03.2022. Therefore, the plaintiff could have filed the suit on or before 05.08.2023 and the present suit has been filed even on 19.06.2023.

13. For better appreciation, the relevant dates to ascertain whether the suit has been filed in time, I extract the material dates hereunder:

- “1. Date of Mortgage : 23.11.2009.*
- 2. 12 years time period for filing suit*
- (As per Article 62 of the Limitation Act) : 22.11.2021.*
- 3. Time period from 15.03.2020 to 22.11.2021 : 618 days.*
- 4. Time period from 15.03.2020 to 14.03.2021 (excluded as per order dated 08.03.2021).*
- 5. Time period from 15.03.2021 to 02.10.2021 (excluded as per order dated 23.09.2021).*
- 6. Time period from 03.10.2021 to 28.02.2022 (excluded as per order dated 10.01.2022).*
- 7. 618 days calculated from 01.03.2022 : 05.08.2023.*
- 8. Suit filed on : 19.06.2023.”*

14. The ratio laid down by the Hon'ble Supreme Court is that wherever limitation expired during the period 15.03.2020 to 28.02.2022, the



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limitation period available was only 90 days from 01.03.2022. Clause 5(III) of the Hon'ble Supreme Court has not been read in entirety and consequently, the trial Court has erred in proceeding to reject the plaint. In the light of the above, I am inclined to set aside the order of the trial Court.

15. In fine, the Civil Revision Petition is allowed. The order dated 02.12.2024 in O.S.S.R.No.7777 of 2023 passed by the learned Principal Subordinate Judge, Kancheepuram, is set aside. The original plaint shall be returned to the learned counsel for the petitioner, to enable the petitioner to represent the same and on the same being represented within a period of two weeks from the date of receipt of the same from the Registry of this Court, the trial Court shall number the suit, if it is otherwise in order, without putting limitation against the plaintiff. There shall be no order as to costs.

16.10.2025

Speaking/Non-speaking : Yes/No

Index : Yes / No

Internet : Yes / No

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To
The Principal Subordinate Judge, Kancheepuram.



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P.B. BALAJI,J.

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