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CRP No. 3392 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-08-2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP No. 3392 of 2025

1. T.P.Somasundaram
S/o. Ponnusamy

Petitioner(s)

Vs

1. Marayal
W/o. Late. Perumal Gounder

2.Palanisamy
S/o. Late. Perumal Gounder

3.Loganathan
S/o. Late. Perumal Gounder

Respondent(s)

PRAYER

To direct the Ld. Sub Court, Avinashi to number the plaint in OS CFR No 4140 of 2025 dated 03.07.2025 and proceed in accordance with law

For Petitioner(s): Ms.R.Renukadevi



ORDER

Heard the learned counsel for the petitioner.

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2. The petitioner is the plaintiff in a suit for specific performance for agreement of sale. The Trial Court has returned the plaint on the ground that the suit is barred by limitation under Article 54 of the Limitations Act, 1963. However, the learned counsel for the plaintiff before the Trial Court has represented the plaint stating that the issue of limitation is a mixed question of fact and law and can be decided only after the parties adduce evidence.

3. The plaintiff has also relied on the decision of this Court in CRP.No.2880 of 2018 dated 29.07.2021. However, without even referring to the nature of the compliance made, the Trial Court has once again returned the plaint on the ground that the previous return has not been complied with. Though the Court has mentioned that the decision that is relied on is not applicable to the facts of the case, it has not stated as to why the said decision is not applicable. Further, as rightly pointed out by the learned counsel for the plaintiff, there is also an alternate prayer for refund of the advance paid. Therefore, considering the relief sought for, the Trial Court clearly fell into error, in returning the plaint on the ground that the suit is barred by limitation.

4. The learned counsel for the petitioner relied on the judgment of this Court in ***R.Manickam and Others Vs. The Sengunthar Charitable Trust and Others*** reported in **2009 (5) CTC 550**,



where it is held that when plaintiff has represented the plaint, after rectifying the defects pointed out by this Court, the return of the plaint, once again stating “to be correctly complied with” would only put the parties in darkness. This Court held that whenever there is a return, the order should speak for itself. This Court further directed that the plaint be represented and the learned District Judge was directed to consider and dispose of the matter on merits and in accordance with law, in a time-bound manner. In the present case as well, except for stating that the previous return has not been complied with and the decision which was relied on was not applicable to the facts of the case, I do not find any judicial application of mind on the part of the Trial Court, in refusing the plaint on the ground of limitation.

5. In view of the above, CRP is allowed, with a direction to the plaintiff to represent the plaint within a period of two weeks from the date of receipt of the original copy of the plaint received from the Registry of this Court and thereafter, the Trial Court shall hear the learned counsel for the plaintiff in the Open Court on the maintainability of the suit and pass orders on merits thereof. No costs.

05-08-2025

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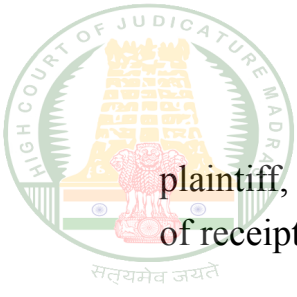
Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

Note: Registry is directed to return the original plaint to the counsel for the



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plaintiff, across acknowledgement, within a period of two weeks from the date of receipt of the order being uploaded.

P.B.BALAJI J.

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