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A NO. 4819 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-01-2025

CORAM

**THE HONOURABLE DR JUSTICE G. JAYACHANDRAN**

**A NO. 4819 of 2024 in C.S.No.163 of 2024**

M/s.PLAZA PROPERTIES LTD

having its office at No.5, The Plaza House, Thirumurthy Street,  
T.Nagar, Chennai 600 017., Represented by its Managing Director  
Mr.Shyamprasad.

Applicant(s)

Vs

Lakshmi Ranganathan And 5 Others

W/o.Mr.V.Ranganathan, Old no.108/3, New No.245/3, Residency  
Apartments, T.T.K.Road, Alwarpet, Chennai 600 018. and 5  
Others

Respondent(s)

**For Applicant:**

M/s.Kishore Balasubramanian

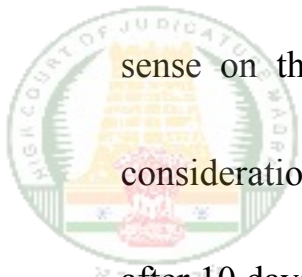
**For Respondents:** Mr.K.Babu for Mr.K.Moorthy

### **ORDER**

C.S.No.163 of 2024 is filed for recovery of money on the premise that the balance sale consideration for the property sold by the sixth plaintiff as power agent of the plaintiffs 1 to 5 not paid by the defendant and in the light of Section 100 of the Transfer of Property Act, the vendor has charge over the property sold for the balance sale consideration.

2. The applicant/defendant has filed an application to reject the plaint on the ground that the suit is barred by limitation as well as there is no cause of action to sustain the plaint.

3. According to the applicant/defendant, the transfer of property has got completed in all



sense on the date of registration of sale deed i.e., 29.12.2006 and the pay sale consideration has also been explicitly found in the recital of sale deed. The plaint presented after 10 days short of 12 years is hopelessly barred by limitation.

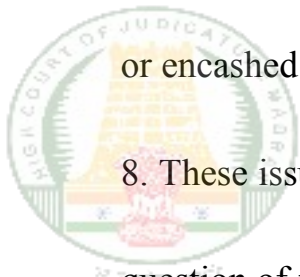
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4. The learned counsel appearing for the applicant/defendant also referring to the original plaint would submit that though the plaint was presented on 14.12.2018, it was numbered after a lapse of six years which would clearly show that the plaint as such is hopelessly barred by limitation.

5. The learned counsel appearing for the applicant/defendant further submits that pre suit notice is mandatory requirement in case of any suit invoking under Section 100 of Transfer of Property Act, whereas, the plaint document.No. 10 and the alleged postal acknowledgement does not substantiate the averments of the plaintiffs that they have served the mandatory notice.

6. The learned counsel appearing for the respondents/plaintiffs has filed counter refuting the averments.

7. This Court on perusing the plaint and the averments made in the application to reject the plaint filed under Order VI Rule 11 (a) and (d) of C.P.C, is of the view that the plaint having been filed ten days prior to the expiry of 12 years from the date of sale deed coupled with the fact that the sale consideration was paid by cash as well as cheque, even if it is not presented



or encashed within the limitation prescribed.

8. These issues are to be tested in the course of trial. The question of limitation being a initial

question of fact and law, it cannot be summarily decided on an application to reject the plaint

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filed under Order VI Rule 11 (a) (d) of C.P.C. Likewise, the cause of action also is based on the proof of Pre Suit Notice whether delivered to the defendant as averred by the plaintiffs also to be tested in the course of trial. Hence, the application to reject the plaint stands dismissed without prejudice to the defendant to raise these points in his written statement canvassed by adducing evidence.

9. Accordingly, this application stands dismissed. No order as to costs.

**02-01-2025**

Vv