



CRP.No.5623 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.5623 of 2025 and

CMP.No.28164 of 2025

1. Balakrishnan

2. Rajamani

... Petitioners

Vs.

1. Hemalatha

2.Senthil Prabhu

...Respondents

PRAYER :Civil Revision Petition filed Article 227 of Constitution of India, praying, to set aside the order dated 21.07.2025 of the Learned II Additional District Munsif Judge, at Coimbatore made in IA No.4 of 2025 in OS No.945 of 2017.

For Petitioners

: Mr.C.Kathirudayan



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ORDER

The Civil Revision Petition is filed challenging the order passed by the trial court dismissing the application filed by the petitioners seeking amendment of the plaint.

2. The petitioners herein filed a suit for bare injunction against the respondents. It was the case of the petitioners that there was an unregistered bogiyam arrangement (usufructuary mortgage) between the petitioners and the respondents on 11-06-2014 where under, the petitioners paid a sum of Rs.8 lakhs to the respondents and the petitioners were allowed to occupy the suit property in lieu of payment of interest on an understanding that the mortgage



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amount would be paid back within a period of 3 years. Even after expiry of 3 years period, the respondents failed to pay back the mortgage debt and attempted to evict the petitioners illegally and hence, the petitioners laid a suit for bare injunction against the respondents from interfering with their peaceful possession and enjoyment.

3. Now, the application has been filed by the petitioners seeking amendment of the plaint so as to include a prayer for recovery of Rs.8 lakhs allegedly paid by the petitioners under 2014 arrangement. The said amendment application was dismissed by the trial court on the ground of limitation. Aggrieved by the same, the petitioners have come before this court.

4. The learned counsel for the petitioners would submit that the question of limitation is a mixed question of fact and law and the court below ought not to have dismissed the amendment application on the ground of limitation. The learned counsel further submitted that while dismissing the amendment application, the trial court relied on Article 52 of Limitation Act which is



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relating to recovery of arrears of rent and in the case on hand, the suit is for recovery of mortgage debt. Therefore, the trial court committed an error in relying on Article 52 of Limitation Act.

5. The averments found in the plaint would make it clear that petitioners and respondents entered into a usufructuary mortgage deed dated 11-06-2014. The description of the document found in the list of documents filed along with the plaint under Order VII Rule 14 of CPC would indicate that document dated 11-06-2014 was only a notarized document and it was unregistered one. When the mortgage arrangement between the petitioners and the respondents was unregistered one, the same cannot be relied to establish the mortgage debt. It can be relied as an evidence of debt. If it is an ordinary debt, the limitation for recovery of the amount is 3 years from the date on which the debt had become due. The debt became due after expiry of three years (i.e., 11.06.2017). The instant amendment application was filed only on 17.02.2024, well beyond three years. Therefore, the trial court rightly appreciated the question of



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limitation and dismissed the amendment application filed by the petitioners. I

do not find any error in the order impugned in this revision. Accordingly, the

civil revision petition stands dismissed. Consequently, the connected

miscellaneous petition is closed. No costs.

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Index : Yes

Internet: Yes

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To

The II Additional District Munsif Judge, Coimbatore.



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