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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-12-2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI**CRP No. 6289 of 2025**

N.Balasubramanian

Petitioner(s)

Vs

S.T.Nehru

Respondent(s)

PRAYER

Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the Judgment dated 03.09.2025 passed by the Learned District Judge, Karaikal in Unnumbered OS U/N. of 2025 (CR. 19 No.2081 of 2025) and to direct the Learned District Court, Karaikal to number the plaint and proceed with the suit in accordance with law and pass such further or other orders and thus render justice.

For Petitioner(s): Mr.I.Inian

ORDER

Heard Mr.I.Inian, learned counsel for the petitioner.

2. The petitioner has filed a suit for specific performance of an agreement of sale dated 09.09.2009, with an alternate prayer for refund of the advance amount paid together with an interest of 10% per annum. The Trial Court has



rejected the plaint even at the un-numbered stage, as one being barred by limitation. The Trial Court is only performing a ministerial function at the time of institution and numbering of the suit.

3. It is settled law that the Court cannot conduct a roving inquiry and decide the merits of the plaintiff's claim at the stage of numbering of the suit. The suit is maintainable under Section 9 of the Code of Civil Procedure. The Trial Court has to go by the averments and allegations made in the plaint and cannot put limitation against the plaintiff. More over it is a suit for specific performance, where limitation is flexible and it is not always from the date of the agreement, but can also be filed within a period of three years from the date of noticing refusal by the defendant to come forward to perform his part of the contract.

4. In any event, there is also a prayer for an alternate relief for refund of advance. In such circumstances, the Court below has clearly fell in error in rejecting the suit at the un-numbered stage. The rejection is also contrary to the principles laid down by this Court in ***K.Selvaraj and Others vs. Koodankulam Nuclear Power Plant India Limited, through its Project Director, Koodankulam, Ramanathapuram Taluk, Tirunelveli District***¹.

¹ 2021 (4) CTC 539



5. In view of the above, I am inclined to set aside the judgment of the Trial Court dated 03.09.2025 passed by the Learned District Judge, Karaikal in Unnumbered OS U/N. of 2025 (CR. 19 No.2081 of 2025), dismissing the suit as barred by limitation at the numbering stage. The plaintiff is permitted to represent the plaint. The Trial Court is directed to number the plaint, if it is otherwise in order. This order shall not come in the way of the defendants to seek rejection of plaint under Order VII Rule 11 of CPC, if advice so.

6. In result, the Civil Revision Petition stands allowed in the above terms.

No costs.

10-12-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

Jeni

To

The District Judge, Karaikal.



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P.B.BALAJI J.

Jeni

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