



C.R..P.(PD)(MD).No.900 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.900 of 2025

1.M.Arulayee

2. P.Deepika

3. M.Sathishkumar

4. R.Jothika

... Petitioners/Petitioners

Vs.

1. R.Gopalakrishnan

2. G.Arunkumar

3. P.Murugesan

... Respondents/Defendants

PRAYER: Civil Revision Petition filed under Article 227 of constitution of India, to set aside against the fair and decretal order dated 03.02.2025 made in Unnumbered O.S.No..... of 2024 on the file of the Principal Sub Judge, Srivilliputtur and allow the above Civil Revision Petition.

For Petitioners : Mr.R.Venkatesan



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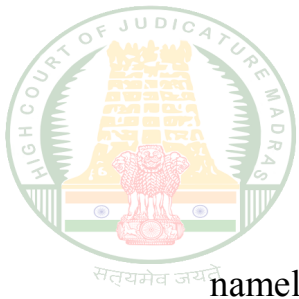
ORDER

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The plaintiffs in Unnumbered O.S.No..... of 2024 on the file of the Principal Sub Court, Srivilliputtur, have filed the present Civil Revision Petition challenging the rejection of the plaint by the trial Court before numbering the same.

2. The first plaintiff's husband and father of the other three plaintiffs namely, Muthukumar had entered into a sale agreement with the first defendant on 14.02.2016. As per the sale agreement, the entire sale consideration of Rs.4,00,000/- (Rupees Four Lakhs only) has been paid by the purchasers and the vendor had agreed to execute the sale deed within a period of one year i.e., on or before 14.02.2017. The agreement holder namely, Muthukumar had passed away on 22.05.2016.

3. The first defendant, who is the owner of the property had executed a sale deed with regard to a portion of the property in favour of the third defendant on 10.06.2021. With regard to the balance portion of the property, the first defendant has executed a settlement deed in favour of his son,



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namely, second defendant, on 08.07.2021. After coming to know about the execution of the sale deed and the settlement deed, the plaintiffs have lodged a police complaint on 04.09.2022 and an F.I.R has also been registered. The plaintiffs have issued the suit notice on 17.12.2022 and they have filed the present suit on 08.12.2024.

4. The trial Court, has proceeded to reject the plaint primarily on the ground that the suit for specific performance and the prayer for declaration of the sale deed and settlement deed are barred by limitation. Challenging the said order, the present Civil Revision petition has been filed.

5. According to the learned counsel appearing for the revision petitioners, they came to know about the alienation and the settlement deed executed by the first defendant only in the year 2022 and immediately they have lodged a police complaint. From the date of knowledge, the suit has been filed within a period of three years and hence, the suit is not barred by limitation.



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6. The learned counsel appearing for the revision petitioners has also relied upon the judgment of the Hon'ble Supreme Court reported in **2019-1-L.W 559 (Urvashiben and another Vs.Krishnakant Manuprasad Trivedi)**.

7. Heard the learned counsel appearing for the revision petitioners and perused the materials available on record.

8. As far as the prayer for specific performance is concerned, it is governed by Section 54 of Limitation Act. In case if a date is fixed for performance, the suit has to be filed within a period of three years from such date. All other cases where no date is fixed, it should be filed within a period of three years from the date on which the plaintiffs have come to notice that the performance is refused. In the present case, though date is fixed for performance, the plaintiffs have already paid the entire sale consideration and there is nothing to be performed on their part. In such circumstances, the Court has to consider whether the period of limitation has to be considered under the first limb of Article 54 of the Limitation Act or under the second limb of Article 54 of the Limitation Act. Therefore, it will be a matter of trial.



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9. As far as the other prayer relating to declaration of two documents as null and void are concerned, the plaintiffs are not parties to the documents. According to them, they came to know about these documents only in September 2022 and immediately they lodged a police complaint. The suit has been filed on 08.12.2024, admittedly, within a period of three years from the said date. Therefore, the trial Court has to consider the fact whether the plaintiff had knowledge from the date of these two documents or only in September 2022. It is also a matter of trial. In such circumstances, the plaint cannot be rejected on the ground that it is barred by limitation.

10. In view of the above said facts, the order impugned in the revision petition is set aside. The trial Court is directed to number the suit, if it is otherwise in order and proceed in accordance with law, without being influenced by any one of the observations made by this Court in this order.



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11. Accordingly, this Civil Revision Petition stands allowed. There shall be no order as to costs.

07.04.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Principal Sub Judge,
Srivilliputtur.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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