IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-02-2026

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP No. 511 of 2026

1. G.Jothipaul
Rep. by his POA,
T.K.S. Pugazhendhi,
No.70, Raja Agraharam Street,
Poonamallee, Chennai – 600 056.

2. N.Jagadeesan
Rep. by his POA, T.K.S. Pugazhendhi,
No.70, Raja Agraharam Street,
Poonamallee, Chennai - 600056.

Petitioner(s)

Vs

1. M/s.Kanishk Gold Private Limited
(In Liquidation)
Rep. by its Liquidator Ebenezar Inbaraj,
Registration No.IBB1/PA-001/ IP,
P00754/2017/2018/11286, No.397, Precision
Plaza, No.23, Third Floor, Teynampet, Anna
Salai,
Chennai - 600018.

2.State Bank of India
Rep. by its Assistant General Manager,
Stressed Asset Management Branch
Red cross Building, Egmore,
Chennai-600 008.

3.Bhoopesh Kumar Jain
Erstwhile Managing Director of
Kanishk Gold Pvt. Ltd.
No.28/29, Kothari Road, Nungambakkam,
Chennai-600034.

4.Neeta Bhoopesh Kumar Jain
Erstwhile Director of Kanishk Gold Pvt. Ltd.
No.28/29, Kothari Road, Nungambakkam,
Chennai-600 034.

5.S.Muthukumar

6.D.Murali,

7.V.Elangovan

Respondent(s)

PRAYER The Civil Revision Petition filed under Article 227 of the Constitution of India, seeking to set aside the order dated 12.11.2025 passed by the Principal District Judge, Kanchipuram in Un Numbered. OS.SR.No.3396/2025.

For Petitioners: Mr.N.Ramakrishnan for
M/s.ARK Law Associates

ORDER

Heard Mr.N.Ramakrishnan, learned counsel for M/s.ARK Law Associates for the petitioners.

2. The plaintiffs aggrieved by the order of rejection of the plaint at the stage of institution, is the revision petitioner. The learned counsel for the petitioner states that the trial Court has erroneously proceeded to reject the plaint on two grounds namely (1) there is a bar under Section 231 of the Insolvency and Bankruptcy Code, 2016 and, (2) on the ground of limitation.

3. As far as the bar of jurisdiction, the learned counsel would point out to the relief sought for in the suit in the nature of declaration challenging the sale deeds, whereas the relief sought for in the writ petitions filed by the petitioners before this Court invoking Article 226 of the Constitution of India, was not to confirm the sale. However, the writ petitions were dismissed giving liberty to the petitioners to approach the National Company Law Tribunal (in short NCLT). However, NCLT declined to entertain the matter on the ground that the NCLT does not have power to grant such relief. It is thereafter the petitioner has moulded the relief and filed a suit. Therefore I do not see how the bar of Section 231 would be an embargo for the petitioner to file the present suit.

4. Insofar as limitation, Mr.N.Ramakrishnan, learned counsel took me through the cause of action set out in the plaint and would content that though the deeds of the year 2017, are sought to be nullified, the Liquidator brought the properties for sale only in September 2024 and further the attachment order itself was raised by the Smuggling Activities and Foreign Exchange Manipulations (SAFEMA), New Delhi, being the Appellate Tribunal only in January 2024. In view thereof, the learned counsel would contend that the question of limitation is a mixed question of fact and law and cannot be decided at the threshold.

5. I find force in the submissions of the learned counsel for the petitioners. In fact, this Court in ***Selvaraj vs Koodankulam Nuclear Power Plant India*** reported in ***2021 4 CTC 539*** has laid down guidelines for the Court to follow while numbering the suits. It is a trait law that the Courts are performing a Ministerial function at the time of institution and numbering of the suits and not any judicial function. The Court ought not to have taken up the role of the defendants and *suo moto* rejected the plaint by invoking power under Order VII Rule 11 C.P.C. that too without numbering the suit.

6. In view of the above, I am inclined to set aside the order of the trial Court, dated 12.11.2025 passed by the Principal District Judge, Kanchipuram in Un Numbered. OS.SR.No.3396/2025, rejecting the plaint and accordingly the same is set aside.

7. However, it is made clear that this order will not come in the way of the defendants invoking the provisions of Order VII Rule 11 CPC. if so advised after the suit is numbered and they are served with summons.

8. The plaintiffs shall represent the plaint along with the copy of the order, within a period of two weeks from the date of receipt of a copy of this order and the suit, if it is otherwise in order, shall be numbered and dealt with in accordance with law.

9. With the above direction, this Civil Revision Petition stands disposed of. No costs.

04-02-2026

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To

1.Kanishk Gold Private Limited (In Liquidation)
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P.B.BALAJI J.

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