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CRP No. 1318 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-08-2026

CORAM

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

CRP No. 1318 of 2023

AND

CMP NO. 8855 OF 2023

Shenoy Nagar Benefit Fund Ltd
Rep by its Executive Director, No.12, Orms Road,
Kilpauk, Chennai 010.

..Petitioner(s)

Vs

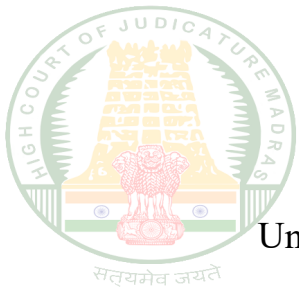
1. Radha
W/o. Saravanan 24, BagavathiAmmal 2nd
Street, Kolathur, Chennai 099.
2. P.Sakunthala
W/o. P.Peddiah 19, Eden Garden Street, Cook
Road, Perambur, Chennai 011.
3. S.Muthu Raja
S/o. SenthurPandy 13/33, Haridoss 2nd St,
Kolathur Chennai 099.
4. S.Hemalatha
W/o. V.Selvam No. 65, 7th St, AnnaiSivagami
Nagami, Chennai 005.

..Respondent(s)

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 22.02.2023 passed in I.A.No. 1/2022 in O.S.No. 4403/2007 on the file of XVII Asst.City Civil Court, Chennai.

For Petitioner(s): Mr. S.Subbiah, Senior Advocate for
Mr.G.Bharadwaj

For Respondent(s): Mr.S.Baskaran for R1
Mr. P.Karan,
for Mr. V.Maniseakara R3



ORDER

Unsuccessful 2nd defendant has preferred this Civil Revision Petition aggrieved over the dismissal of the Interlocutory Application filed to reject the plaint.

2. Originally the 1st respondent / plaintiff has filed a Suit in O.S.No.4403 of 2007 seeking the relief of Specific Performance directing the defendants 1 and 4 to execute a Registered Sale Deed in pursuance to the oral agreement which resulted in the Unregistered Sale Deed executed by the defendants 1 and 4 on 25.02.1996 and to declare the Sale Deed dated 31.05.2003 executed by the 1st defendant in favour of the 2nd defendant as null and void and to declare the sale deed dated 29.03.2006 executed by the 3rd defendant in favour of the 2nd defendant as null and void and for permanent injunction against 3rd defendant and his men from interfering peaceful possession.

3. The defendants filed their written statement and the parties went for trial. At this stage, the revision petitioner / 2nd defendant has filed an application in I.A.No.15930 of 2009 under Order13 Rule 3 CPC praying to reject the unregistered sale deed date 25.02.1996 filed along with the plaint. The plaintiff has filed a counter statement in the aforesaid application. The Court below, after hearing both sides, had concluded that the admissibility of the sale deed would be tested at the time of passing the judgment and dismissed the



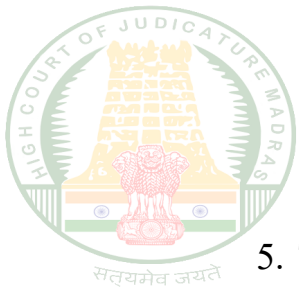
application on 02.09.2010. Aggrieved over the same, the appellant / 2nd defendant preferred CRP(PD) No.4477 of 2010 and this Court disposed of the civil revision petition, vide order dated 01.07.2019, with the following directions:

“6. It is true that the trail in OS.No.4403 of 2007 has not yet commenced. The document which is filed along with the plaint is an unregistered sale deed dated 25.02.1996 and it has not yet been admitted evidence till date. Therefore, the trial court is directed to keep in mind the provisions of Sections 17, 35 and 49 of the Registration Act before admitting the said document. The trial court is also directed to keep in mind the settled proposition of law laid down in Avinash Kumar Chauhan vs. Vijay Krishna Mishra reported in (2009) 3 MLJ 409 (SC) and the facts of the case in OS.No.4403 of 2007 before marking the said document as evidence. The learned counsel appearing for the revision petitioner is at liberty to raise his objections at the time of marking the document.”

4. It is to be noted that during pendency of the suit, again the appellant / 2nd defendant has filed an application under Order 7 Rule 11 CPC to reject the plaint as barred by limitation and barred by Sections 17 and 49 of the Registration Act and Section 35 of the Stamp Act in I.A.No.1/2022 in O.S.No.4403 of 2007. In the affidavit filed in support of the petition, the petitioner/2nd defendant has stated that the 2nd respondent/1st defendant had availed loan from the petitioner/ 2nd defendant, who created an equitable mortgage dated 04.01.1994 in respect of the suit property in favour of the petitioner/ 2nd defendant. The 1st respondent / plaintiff had alleged in the above Suit that the 2nd respondent / 1st defendant had executed an Unregistered Sale Deed dated 25.02.1996 in her favour in respect of the suit property after two



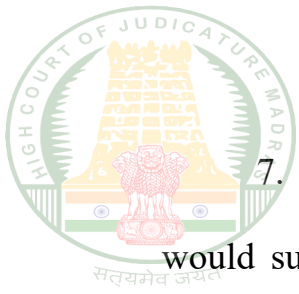
years from the date of mortgage. The 2nd respondent / 1st defendant defaulted in repayment of the loan and that having been unsuccessful in selling the suit property in the public auction on many times, the petitioner / 2nd defendant had offered to purchase the said property and that the 2nd respondent / 1st defendant had accepted the said offer and sold the said property in favour of the petitioner / 2nd defendant vide sale deed dated 31.05.2003. Subsequently, the revision petitioner had in-turn sold the said property to the 3rd respondent / 3rd defendant under Sale Deed dated 29.03.2006. The suit has been filed on the basis of the unregistered and unstamped Sale Deed dated 25.02.1996 and hence, as per Section 35 of the Stamp Act, the said document cannot be received in evidence even for collateral purpose. The unregistered sale deed dated 25.02.1996 alleged to have been executed by the 1st respondent / plaintiff in favour of the 2nd respondent / 1st defendant on non-judicial stamp paper of Rs.10 alone when the alleged sale consideration is Rs.1,25,000/-. If the instrument is unstamped and unregistered, the same cannot be relied upon by the 1st respondent for any purpose and consequently cannot be received in evidence as per Sections 17 and 49 of the Registration Act. Suit seeking the relief of declaring the sale deed dated 31.05.2003 ought to have been filed within 3 years from the said date, but the suit was filed on 12.07.2007 after 3 years from 31.05.2003 and therefore, the same is clearly barred by limitation. Consequently, the sale deed dated 29.03.2006 is also barred by limitation. Hence the said petition.



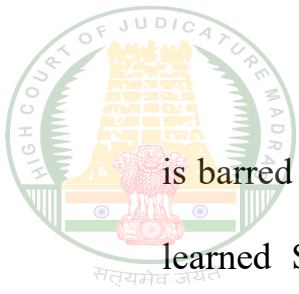
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5. The 1st respondent / plaintiff had filed a counter affidavit, wherein it has been stated that a joint memo was filed for joint trial along with the Suit in O.S.No.1249 of 2007, in which the 1st respondent / plaintiff is the 1st defendant therein and the same was allowed. The revision petitioner played a fraud on this Court by suppressing and misrepresenting that this case is to be taken up separately and the plaintiff side evidence was closed on 02.08.2022 and he is taking steps to recall the order and reopen the plaintiff's side evidence. Hence, the petition is premature.

6. Upon hearing either side, the Court below dismissed the application on the ground that an unregistered sale deed was already marked as Ex.A1 in the Suit and hence, it is the duty of the Court to evaluate the admissibility, proof and relevancy of Ex.A1, while deciding the suit keeping in mind the authoritative decisions ruling the respective field. Since the suit is not barred by limitation as per the pleadings and since the admissibility, proof and relevancy of Ex.A1 can be decided at the time of evaluating the evidence by keeping the authoritative decisions in mind, the Court below had dismissed the application. Aggrieved over the same, the 2nd defendant has preferred the present Civil Revision Petition.



7. The learned Senior Counsel appearing for the revision petitioner would submit that the Court below failed to consider the effect of the order passed by this Court in CRP.No.4477 of 2010 dated 01.07.2019. It was not brought to the notice of this Court at the time of hearing of the above mentioned CRP that the document namely an unregistered and undervalued sale deed had already been marked as Ex.A1. Ex.A1 if it is not properly stamped under Section 49 of the Registration Act, such document can be eschewed from the evidence or even otherwise, such document could be impounded under Section 35 of the Stamp Act and accordingly, the question relating to stamp duty payable on the document, which has been marked as Ex.A1 ought to be considered while considering the admissibility of the document, without the payment of requisite stamp duty or otherwise. The 1st respondent / plaintiff did not enter into the witness box to subject herself for cross examination and also when the evidence itself was closed for the very same reason, the first respondent had failed to appear before the trial Court. It is settled law that the entire evidence let in by the 1st respondent both oral and documentary including that of the marking of Ex.A1 and eschewed and consequently, the one and only available step is to reject the plaint under Order VII Rule 11 (a) and (d) of Civil Procedure Code. When the 1st respondent / plaintiff seeking the remedy of specific performance, time shall be the date fixed for the performance and when the time itself having been found in the said unregistered sale deed, it has got to be considered that the Suit filed by the 1st respondent / plaintiff beyond 3 years

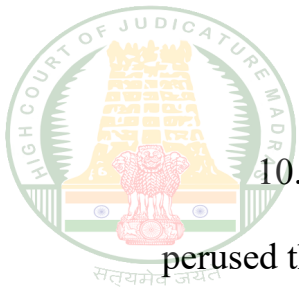


is barred under Article 54 of the Limitation Act. To strengthen his contention, learned Senior Counsel for the petitioner has relied upon the decisions in

G.M.Shahul Hameed v. Jayanthi R.Hedge [(2024) 7 SCC 719], R.Valliammal v. K.P.Murali and Others [Civil Appeal No.5342 of 2023 dated 12.09.2023 and Fatehji & Company & Anr. v. L.M.Nagapal & Ors. [Civil Appeal Nos.3912 of 2015 dated 24.04.2015].

8. *Per contra*, learned counsel appearing for the 1st respondent / plaintiff would submit that as admitted, Ex.A1 already been marked, then it is for the revision petitioner to make his objections in a manner known to law. The revision petitioner already filed an application to reject the unregistered sale deed in I.A.No.15930/2009 and the same was dismissed. Aggrieved over the same, the present revision petitioner already filed CRP.No.4477 of 2010 and this Court disposed of the application by providing an opportunity to raise all objections at the time of marking of documents. Admittedly, now the documents came to be marked and cannot take contradictory view by filing a petition to reject the entire plaint on the same grounds.

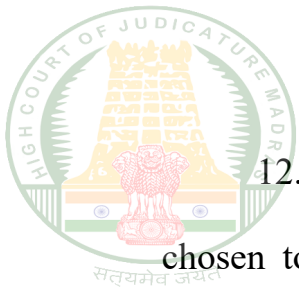
9. The learned counsel appearing for the 3rd respondent / 3rd defendant adopted the arguments of the learned counsel appearing for the revision petitioner.



10. This Court considered the submissions made on either side and perused the available records carefully.

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11. It is seen from the records that the revision petitioner / 2nd defendant already filed an application in I.A.No.15930 of 2009 in O.S.No.4403 of 2007 to reject the unregistered sale deed dated 25.02.1996 which was filed along with the plaint. After analysing the evidence on record, the Court below came to the conclusion that the admissibility of the unregistered sale deed can be decided at the time of passing of the judgment and dismissed the application. Aggrieved over the same, the present revision petitioner / 2nd defendant preferred CRP No.4477 of 2010, before this Court. According to the revision petitioner, while hearing the aforesaid CRP.No.4477/2010, it was represented that the said unregistered sale deed has not yet been marked and therefore, this Court was pleased to direct keeping in mind the settled proposition of law laid down by the Hon'ble Supreme Court in *Avinash Kumar Chauhan v. Vijay Krishna Mishra reported in (2009) 3 MLJ 409*, while marking of document as exhibit. Be that as it may, now said document was already been marked as Ex.A1 and the case was posted for cross examination of PW1. The plaintiff / PW1 did not turn up for cross examination and therefore, the Court below closed the evidence of PW1.



12. It is pertinent to mention that initially the revision petitioner has not chosen to file the petition under Order 7 Rule 11 CPC to reject the plaint, whereas he has filed the application only to reject the unregistered sale deed should not be marked as exhibit, which was rejected and challenged the same in CRP.No.4477 of 2010.

13. It is pertinent to note that the revision petitioner has filed an interlocutory application under Order 7 Rule 11 CPC, whereas in the grounds raised in the civil revision petition, it has been stated that the plaint has to be rejected under Order 7 Rules 11(a) and 11(d) CPC.

14. At this juncture, it is relevant to refer Order 7 Rule 11 CPC, which reads hereunder:

“11. Rejection of plaint.

The plaint shall be rejected in the following cases:

- (a) where it does not disclose a cause of action;*
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;*
- (c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;*
- (d) where the suit appears from the statement in the plaint to be barred by any law;*
- (e) where it is not filed in duplicate;*
- (f) where the plaintiff fails to comply with the provisions of [rule 9](#):*

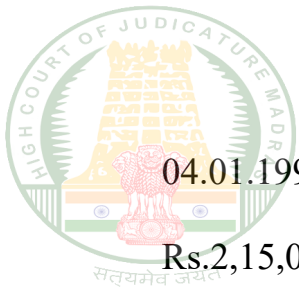


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Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.”

15. It is not the case of the revision petitioner that there is no cause of action arose to file the Suit. It is seen from pleadings in the plaint in O.S.No.4403 of 2007, wherein it has been stated about the cause of action for filing the suit seeking the relief stated in it. Therefore, the rejection of plaint under Order VII Rule 11(a) C.P.C cannot be considered at this stage.

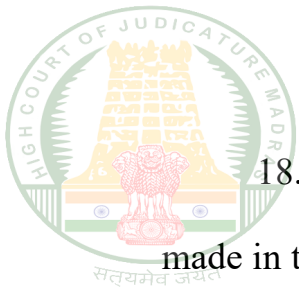
16. Further according to the revision petitioner, the Suit is filed to declare the sale deed dated 31.05.2003, hence suit ought to have been filed within 3 years from the said sale date. It is seen from the averments of the plaint, wherein it has been stated that during last of November 2006, the 3rd defendant claiming to have purchased the property, attempted to encroach the property sold by the 1st defendant on 25.02.1996 and in possession of the plaintiff and the same was prevented. The 3rd defendant gave a police complaint and the police after seeing all the documents advised the parties to go to a Civil Court. At that time only, the plaintiff came to know that her sister, Sakunthala, the 2nd respondent/1st defendant mortgaged the property to the 2nd defendant on



04.01.1994 and on 31.05.2003 expressed her inability to pay the sum of Rs.2,15,000/- due to the mortgage to the 2nd defendant and offered to sell the property for Rs.2,20,000/- and the 2nd defendant accepted the offer and a sale deed was registered in favour of the 2nd defendant on 04.06.2003.

17. It is seen from the written statement filed by the revision petitioner / 2nd defendant wherein it has been stated that the plaintiff came to know about the above transactions only in the year 2006. Since the suit is barred by limitation, ought to have been filed within 3 years from 31.05.2003 and the same is purely barred by limitation. At this juncture, it is relevant to refer the judgment of the Hon'ble Supreme Court in the case of **P.Kumarakurubaran vs. P.Narayanan** and others reported in **2025 INSC 598** herein and the relevant paragraph is extracted hereunder:

12.1. However, we are of the considered view that the issue as to whether the appellant had prior notice or reason to be aware of the transaction at an earlier point of time, or whether the plea regarding the date of knowledge is credible, are matters that necessarily require appreciation of evidence. At this preliminary stage, the averments made in the plaint must be taken at their face value and assumed to be true. Once the date of knowledge is specifically pleaded and forms the basis of the cause of action, the issue of limitation cannot be decided summarily. It becomes a mixed question of law and fact, which cannot be adjudicated at the threshold stage under Order VII Rule 11 CPC. Therefore, rejection of the plaint on the ground of limitation without permitting the parties to lead evidence, is legally unsustainable.



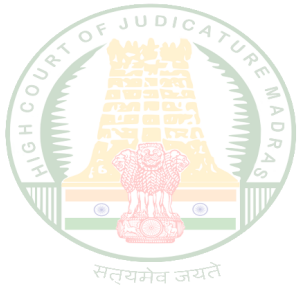
18. By keeping in mind the above judgment, a perusal of the averments made in the plaint reveals that the issue of limitation involves mixed question of law and facts and requires evidence to decide the real controversy between the parties. In such circumstances, the contentions raised by the revision petitioner can be considered only in the trial. Thus, the plea under Order VII Rule 11(d) C.P.C cannot be considered at this stage. This Court finds no reason to interfere with the order passed by the Court below and finds no merit in this Civil Revision Petition.

19. In the result, the Civil Revision Petition is dismissed. Considering the fact that the Suit is of the year 2007 and therefore, this Court requests the learned Trial Judge to dispose of the suit expeditiously as possible. No costs. Consequently, connected miscellaneous petition is also dismissed.

07.08.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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To
XVIII Assistant City Civil Court,
Chennai.



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M.JOTHIRAMAN J.

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