

[2022] 18 S.C.R. 221

C.S. RAMASWAMY

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v.

V. K. SENTHIL & ORS.

(Civil Appeal No. 500 of 2022)

SEPTEMBER 30, 2022

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**[M.R. SHAH AND KRISHNA MURARI, JJ.]**

*Code of Civil Procedure, 1908 – Or.VII r.11(d) – Rejection of plaint – Limitation Act, 1963 – s.17 – Respondents filed respective suits in the year 2015/2016 for cancellation of the sale deeds executed in 2005, alleging that the same were obtained by fraud – Appellant filed applications u/Or.VII r.11(d) for rejection of the plaintiffs mainly on the ground that the suits were barred by limitation, dismissed – Revision petitions filed by appellant, dismissed by High Court – Held: Respective suits were filed after a period of 10 years from the date of execution of the registered sale deeds – Nothing was mentioned on which date and how the plaintiffs had the knowledge that the document was obtained by fraud and/or misrepresentation – There were no further averments and allegations of how the fraud was committed/played – Mere stating in the plaint that a fraud has been played is not enough – Allegations of fraud must be specifically averred in the plaint, otherwise merely by using the word “fraud”, by clever drafting the plaintiffs would try to get the suits within the limitation, which otherwise may be barred by limitation, as in the present case – Impugned judgment passed by the High Court and the orders passed by the Trial Court set aside – Respective suits are rejected being barred by limitation – Fraud.*

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#### **Allowing the appeals, the Court**

**HELD:** 1.1 Therefore, even considering the averments and allegations in the plaints only, it can be seen that even according to the plaintiffs, the cause of action for the suit arose on 19.09.2005, the date on which the plaintiffs executed the sale deed in favour of the defendant. Most of the cause of actions alleged are much prior to /prior to the execution of the registered Sale Deeds. Even the averments and allegations with respect to knowledge of the plaintiffs averred in paragraph 19 can be said

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- A to be too vague. Nothing has been mentioned on which date and how the plaintiffs had the knowledge that the document was obtained by fraud and/or misrepresentation. It is averred that the alleged fraudulent sale came to the knowledge of the plaintiffs only when the plaintiffs visited the suit property. Nothing has been mentioned when the plaintiffs visited the suit property. It is not understandable how on visiting the suit property, the plaintiffs could have known the contents of the sale deed and/or the knowledge about the alleged fraudulent sale. Even the averments and allegations in the plaint with respect to fraud are not supported by any further averments and allegations how the fraud has been committed/played. Mere stating in the plaint that a fraud has been played is not enough and the allegations of fraud must be specifically averred in the plaint, otherwise merely by using the word "fraud", the plaintiffs would try to get the suits within the limitation, which otherwise may be barred by limitation.
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- D Therefore, even if the submission on behalf of the respondents – original plaintiffs that only the averments and allegations in the plaints are required to be considered at the time of deciding the application under Order VII Rule 11 CPC is accepted, in that case also by such vague allegations with respect to the date of knowledge, the plaintiffs cannot be permitted to challenge the
- E documents after a period of 10 years. By such a clever drafting and using the word "fraud", the plaintiffs have tried to bring the suits within the period of limitation invoking Section 17 of the limitation Act. The plaintiffs cannot be permitted to bring the suits within the period of limitation by clever drafting, which otherwise is barred by limitation. [Paras 7.5-7.8][231-E-F; 232-B-H]

*Raghwendra Sharan Singh v. Ram Prasanna Singh (Dead) by Legal Representatives (2020) 16 SCC 601:[2019] 4 SCR 1069 – relied on.*

- G 1.2 Both the Courts below have materially erred in not rejecting the plaints in exercise of powers under Order VII Rule 11(d) CPC. The respective suits have been filed after a period of 10 years from the date of execution of the registered sale deeds. It is to be noted that one suit was filed by the minor, which was

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filed in the year 2006, in which some of the plaintiffs herein were also party to the said suit and in the said suit, there was a specific reference to the Sale Deed dated 19.09.2005 and the said suit came to be dismissed in the year 2014 and immediately thereafter the present suits have been filed. Thus, from the averments in the plaint and the bundle of facts stated in the plaint, by clever drafting, the plaintiffs have tried to bring the suits within the period of limitation, which otherwise are barred by limitation. Therefore, considering the decisions of this Court in the case of *T. Arivandandam* and other decision of *Raghwendra Sharan Singh* and as the respective suits are barred by the law of limitation, the respective plaints are required to be rejected in exercise of powers under Order VII Rule 11 CPC. In view of the above and for the reasons stated above, all these appeals succeed. The impugned common judgment and order passed by the High Court rejecting the revision applications and the orders passed by the learned Trial Court rejecting the respective applications under Order VII Rule 11 CPC and refusing to reject the plaints in exercise of powers under Order VII Rule 11 CPC are hereby quashed and set aside. The respective applications filed by the appellant herein – original defendant to reject the respective plaints on the ground that the same are barred by the law of limitation are hereby allowed. The respective plaints are hereby rejected on the ground that the same are barred by limitation.  
[Paras 7.9, 8]

*T. Arivandandam v. T.V. Satyapal (1977) 4 SCC 467 :  
1978 (1) SCR 742 – relied on.*

*Sopan Sukhdeo Sable & Ors. v. Assistant Charity Commissioner & Ors. (2004) 3 SCC 137:[2004] 1 SCR 1004; Srihari Hanumandas Totala v. Hemant Vithal Kamat & Ors. (2021) 9 SCC 99; Ram Prakash Gupta v. Rajiv Kumar Gupta & Ors. (2007) 10 SCC 59:[2007] 10 SCR 520; Church of Christ Charitable Trust and Educational Charitable Society v. Ponniamman Educational Trust (2012) 8 SCC 706:[2012] 6 SCR 404; Salim D. Agboatwala & Ors. v. Shamalji Oddhavji Thakkar & Ors. 2021 SCC Online SC 735 – referred to.*

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- | A | <u>Case Law Reference</u>  |             |
|---|--|-------------|
|   | [2019] 4 SCR 1069  | relied on   |
|   | [2004] 1 SCR 1004  | referred to |
|   | (2021) 9 SCC 99  | referred to |
| B | [2007] 10 SCR 520  | referred to |
|   | [2012] 6 SCR 404   | referred to |
| C | CIVIL APPELLATE JURISDICTION : Civil Appeal No. 500 of 2022.   |             |
| D | From the Judgment and Order dated 28.02.2020 of the High Court of Judicature at Madras in C.R.P. No.1931 of 2019.  |             |
| E | <p>With<br/>Civil Appeal Nos. 504, 505, 506, 502, 501 and 503 of 2022.</p> <p>Kapil Sibal, A. Mariarputham, R. Balasubramanian, Sr. Advs., C. Thirumaran, Avneesh Arputham, Ms. Anuradha Arputham, Dr. Ram Sankar, R. N. Amarnath, Adit Subramanian Pujari, Praveen Kr. Singh, Ankit Sharma, M/s Arputham Aruna and Co., Advs. for the Appellant.<br/>Sushil Kumar Jain, Sr. Adv., S. Sinnaraj, Ms. E. R. Sumathy, A. Parthasarathi, Ms. Pooja Shree S., Ms. Murugesan M., Ms. Shruti, Advs. for the Respondents.</p>  |             |
| F | <p>The Judgment of the Court was delivered by<br/><b>M.R. SHAH, J.</b></p> <p>1. Feeling aggrieved and dissatisfied with the impugned common judgment and order passed by the High Court of Judicature at Madras in respective C.R.P. Nos. 1931, 1921, 1973, 1968, 1975, 1976 and 1922 of 2019 by which the High Court has dismissed the said civil revision petitions and has confirmed the orders passed by the learned Trial Court rejecting the applications filed under Order VII Rule 11 of Code of Civil Procedure (hereinafter referred to as "CPC") to reject the respective plaints filed by the appellant herein – original defendant, who has preferred the present appeals.</p> |             |
| G | <p>2. That the respondents herein – original plaintiffs have filed the respective suits before the learned Trial Court for cancellation of the</p>   |             |
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sale deed executed by the plaintiffs in favour of the appellant – original defendant as null and void and also to declare that the plaintiffs are the absolute owners of the suit schedule property and consequently restrain the defendant from in any manner alienating the suit schedule property.

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2.1 Having been served with summons of the suit, the original defendant – appellant herein filed applications before the learned Trial Court to reject the respective plaints in exercise of powers under Order VII Rule 11(d) of the CPC mainly on the ground that the respective suits were clearly barred by the law of limitation. The said applications were resisted by the plaintiffs by submitting that the Sale Deeds dated 12.09.2005, 19.09.2005, 22.09.2005, 29.09.2005 and 30.09.2005 for which the relief to cancel the same has been prayed in the suit was obtained by fraudulent misrepresentation and it was obtained by fraud. According to the plaintiffs, by fraudulent misrepresentation of the character of the document, i.e., as if it is a Joint Development Project, the defendant got the sale deeds and the plaintiffs without knowing the contents of the documents have executed the said deeds. According to the plaintiffs, they came to know about the same only in April, 2015 and immediately thereafter they had filed the present suits.

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2.2 The learned Trial Court dismissed the applications under Order VII Rule 11 CPC by observing that the issue of limitation is a mixed question of law and facts and therefore, the respective prayers are not required to be rejected at this stage in exercise of powers under Order VII Rule 11(d) of the C.P.C.

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2.3 Feeling aggrieved and dissatisfied with the orders passed by the learned Trial Court rejecting the applications under Order VII Rule 11(d) CPC and refusing to reject the plaints, the defendant filed the revision petitions before the High court.

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2.4 By the impugned judgment and order, the High Court has dismissed the said civil revision petitions, which has given rise to the present appeals at the instance of the original defendant.

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3. Shri Kapil Sibal, learned Senior Advocate has appeared on behalf of the appellant – original defendant and Shri Sushil Kumar Jain, learned Senior Advocate has appeared on behalf of the contesting respondents – original plaintiffs.

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- A        4. Shri Sibal, learned Senior Advocate appearing on behalf of the appellant – original defendant has vehemently submitted that in the facts and circumstances of the case, both, the learned Trial Court as well as the High Court have erred in not allowing the applications under Order VII Rule 11(d) CPC and in not rejecting the respective plaints as the same were barred by limitation. It is vehemently submitted that in the present case, the sale deeds, which are now sought to be cancelled were executed in the year 2005 and the sale consideration was paid by demand drafts and the same were credited into the bank accounts of the plaintiffs. It is submitted that the said sale deeds are registered sale deeds. It is submitted that the suits have been filed in the year 2016, i.e.,
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- C        after a lapse of more than 10 years and so the said suits are clearly barred by the law of limitation. The learned Trial Court ought to have rejected the plaints in exercise of powers under Order VII Rule 11(d) CPC.

4.1 It is vehemently submitted by Shri Sibal, learned Senior

- D        Advocate appearing on behalf of the appellant – original defendant that even on bare looking on the averments in the plaint and there are vague averments with respect to the date of knowledge of the alleged fraud and the documents and the respective suits have been filed after a period of 10 years from the date of execution, which is a fit case to exercise the powers under Order VII Rule 11(d) CPC. It is vehemently submitted
- E        that merely by making some vague averments with respect to fraud, the plaintiffs cannot be permitted to bring the suits within the period of limitation. It is submitted that there must be specific allegations and averments in the suit, how the fraud has been committed. It is submitted that mere stating in the plaint that the registered sale deeds were executed
- F        by playing the fraud is not sufficient to file the suits after a period of 10 years.

4.2 Shri Sibal, learned Senior Advocate appearing on behalf of the appellant has vehemently submitted that in the present case, with respect to the very sale deeds, earlier a suit was filed by the minor to

- G        which some of the original plaintiffs were also parties and the said suits came to be dismissed in the year 2014. It is submitted that immediately thereafter the present suits were filed in the year 2015/2016. It is submitted that therefore, it cannot be said that the plaintiffs were not having the knowledge of the nature of the respective sale deeds and/or the contents of the sale deeds.

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4.3 Making above submissions and relying upon the decision of this Court in the case of **Raghwendra Sharan Singh Vs. Ram Prasanna Singh (Dead) by Legal Representatives, (2020) 16 SCC 601**, it is prayed to allow the present revision petitions and consequently allow the application submitted by the appellant – original defendant and to reject the respective plaints in exercise of the powers under Order VII Rule 11(d) of the CPC.

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5. Present appeals are vehemently opposed by Shri Sushil Kumar Jain, learned Senior Advocate appearing on behalf of the respondents - original plaintiffs.

5.1 It is submitted that there is specific cause of action pleaded in the respective plaints and there are allegations of fraud and it is the case on behalf of the plaintiffs that the sale deeds/documents are the result of fraud and sham and from the date of knowledge in the year 2015 thereafter immediately the respective suits were filed, it cannot be said that the respective suits are barred by limitation.

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5.2 It is submitted that as rightly observed and held by the Trial Court as well as the High Court that in the facts and circumstances of the case, the issue with respect to limitation is a mixed question of law and facts and therefore, such an issue of limitation is required to be considered at the time of trial, no error has been committed by the learned Trial Court and/or the High Court in refusing to reject the plaints in exercise of powers under Order VII Rule 11(d) CPC.

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5.3 It is submitted that as per the settled position of law, while considering and/or deciding the application under Order VII Rule 11 CPC, only the averments and allegations in the plaint are required to be considered. Reliance is placed on the decisions of this Court in the case of **Sopan Sukhdeo Sable & Ors. Vs. Assistant Charity Commissioner & Ors., (2004) 3 SCC 137**; **Srihari Hanumandas Totala Vs. Hemant Vithal Kamat & Ors., (2021) 9 SCC 99**; and **Ram Prakash Gupta Vs. Rajiv Kumar Gupta & Ors., (2007) 10 SCC 59**.

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5.4 It is submitted that as held by this Hon'ble Court in the case of **Church of Christ Charitable Trust and Educational Charitable Society Vs. Ponniyamman Educational Trust, (2012) 8 SCC 706**, the cause of action is bundle of facts where all the events are required to be pleaded. It is submitted that therefore on considering the necessary averments in the plaint disclosing the cause of action and considering

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- A the averments and allegations in the entire plaint, it cannot be said that the suits are barred by limitation.

5.5 It is submitted that in the plaint, it is specifically averred that the plaintiffs came to know about the contents of the sale deeds only in the year 2015 and having come to know in the year 2015 that the Sale

- B Deeds were got executed by the defendant by fraud and misrepresentation as the plaintiffs had signed the said documents believing the same as Joint Development Agreement and therefore, it cannot be said that the suits are clearly barred by the law of limitation.

5.6 It is submitted that the question of limitation is a mixed question

- C of fact and law. It is submitted that in the present matter, the plaintiffs are required to prove during the trial that the facts so alleged in paras 11-19, if those facts are established, then the plaintiffs are entitled to benefit of Section 17 of the Limitation Act.

5.7 It is submitted that considering Section 17 of the Limitation

- D Act, the period of limitation shall begin to run only from the date of discovery of such fraud. It is submitted that as per the averments and allegations in the plaints, the plaintiffs came to know about the fraud in the year 2015 and therefore, considering Section 17 of the Limitation Act, the suits cannot be said to be barred by limitation. Reliance is placed on the decision of this Court in the case of **Salim D. Agboatwala & Ors. Vs. Shamalji Oddhavji Thakkar & Ors., 2021 SCC Online SC 735**.

5.8 Shri Jain, learned Senior Advocate appearing on behalf of the respondents - original plaintiffs vehemently submitted that in the present case, defendant himself filed the writ petition in the name of the plaintiffs

- F and even in the names of the dead owners, which shows that the plaintiffs not only got the sale deeds executed in the name of Joint Venture Agreement but even got the blank documents, which were taken and used for filing the writ petitions.

5.9 Making above submissions and relying upon the above

- G decisions, it is prayed to dismiss the present appeals.

6. Heard the learned Senior Advocates appearing on behalf of the respective parties at length.

7. We have gone through in detail the averments and allegations in the plaints.

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7.1 At the outset, it is required to be noted that by filing the respective suits, the original plaintiffs have prayed to cancel the registered Sale Deeds, which were executed by the original plaintiffs. The respective suits have been filed in the year 2015/2016, i.e., after a period of 10 years from the date of execution of such registered sale deeds. Therefore, the defendant filed the applications and prayed to reject the respective plaints in exercise of the powers under Order VII Rule 11(d) CPC on the ground that the suits are clearly barred by the law of limitation. On the other hand, it is the case on behalf of the plaintiffs that as the sale deeds/documents were got executed by fraud and misrepresentation and the plaintiffs signed the said documents believing or treating it as Joint Venture Agreement and the plaintiffs did not go through the contents of the said documents and as in the year 2015, the plaintiffs came to know about such fraud and obtaining the documents/sale deeds by misrepresentation, considering Section 17 of the Limitation Act, the said suits cannot be said to be barred by limitation. It is the case on behalf of the plaintiffs that in any case, the question of limitation being a mixed question of law and facts, and, therefore, in the facts and circumstances of the case, the plaints may not be rejected in exercise of the powers under Order VII Rule 11(d) CPC. It is the case on behalf of the plaintiffs that while considering the application under Order VII Rule 11 CPC, the allegations and averments in the plaints are required to be considered.

7.2 While considering the issue/question whether the plaints filed by the plaintiffs are required to be rejected on the ground of limitation in exercise of powers under Order VII Rule 11(d) CPC, the cause of action pleaded in the plaints is required to be referred to, which reads as under:-

“21. The cause of action for the suit arose on 19.09.2005 the date on which the plaintiffs executed the sale deed in favour of the defendant registered as document No. 3555/2005, on 20.09.1983 the date when Government of Tamil Nadu issued Sec. 4 (1) notice of Land Acquisition Act in respect of the plaintiff’s lands, on 20.09.1983 the date when after Section 4(1) notification the Government of Tamil Nadu a declaration under Section 6 was issued in G.O. No. 1426 by the Housing and Urban Development Department, on subsequent dates when land acquisition proceedings were initiated

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- A by the Government of Tamil Nadu filed a writ petition in W.P. No. 4079 of 1989 against the plaintiff and other land owners, on 07. 07 .1989 the date when the stay order in WMP No. 5983 of 1989 was given, on 07.01.1994 the date when stay order was vacated, on 01.04.1998 the date when the plaintiffs filed a writ appeal questioning the said order in W.A. No. 258 of 1994, on 01.04.1998 the date when High Court quashed the entire acquisition proceedings under the old land acquisition act, on subsequent dates when the housing board has filed SLP (C) No. 13458 to 13462 of 1998 which was subsequently withdrawn with liberty to approach the Honorable High Court of Madras by filing the review petition, on subsequent date when the housing board filed a review petition before the High Court in Review No. 68 of 1999 seeking to review the order dated 01.04.1998 passed in WA No. 258 of 1994 and W.P. No. 4079 of 1989, on 04.10.2007 the date when the review petition was allowed thereby setting aside the order dated 01.04.1998, on 05.01.2009 the date when the M.P. 1 of 2008 was dismissed by the High Court Division Bench, on 09.07.2012 the date when the petitioners in writ petition preferred a SLP (C) No. 15932 and 15933 of 2020 before Supreme Court and an order of status quo was granted and the same is pending on 23.06.2014 the date when the defendant obtained a fraudulent decree by filing a writ petition before High Court Madras under new land acquisition act, on 04.04.2015 the date when the plaintiff wrote letter to advocate who alleged to have represented on behalf of the plaintiff, on 19.04.2015 the date when the plaintiff received the reply admitting that plaintiffs and other land owners, during the month of November when the plaintiffs came to know about the fraudulent sale and on all other subsequent where the suit properties are satiated within the jurisdiction of this Hon'ble Court at Coimbatore.”
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7.3 In paragraph 19, the plaintiffs have made averments with respect to the date of knowledge. Paragraph 19 reads as under:- A

“”19. The plaintiffs humbly submit that the plaintiffs and other land owners have not sold the properties to the defendant at all. They did not receive any consideration from the defendant at all they did not hand over any possession also and the alleged fraudulent sale came to the knowledge of the plaintiffs only when the plaintiffs visited the suit properties. Hence, immediately the plaintiffs and other land owners took steps to engage their own advocates and now the plaintiffs and other land owners are being represented by their own counsel at Chennai. Hence, the plaintiffs in order to remove the could cover the title of the land have filed the suit to cancel the alleged sale deeds executed by the plaintiffs in favour of the defendant through fraudulent means.” B C

7.4 Thereafter, in paragraph 20, it is averred and alleged as under:- D

“20. The plaintiffs humbly submit that the defendant has obtained the sale deed from the plaintiffs by fraudulent means therefore the alleged sale deed executed by plaintiffs in favour of the defendant as document No. 3555/2005 dated 19.09.2005 has to be cancelled.” E

7.5 Therefore, even considering the averments and allegations in the plaints only, it can be seen that even according to the plaintiffs, the cause of action for the suit arose on 19.09.2005, the date on which the plaintiffs executed the sale deed in favour of the defendant. In paragraph 21, while considering the cause of action, it is further averred that the cause of action has arisen on:- F

- (i) 20.09.1983 – when Section 4 Notification was issued by the Government of Tamil Nadu;
- (ii) when the Writ Petition No. 4079 of 1989 was filed; G
- (iii) 07.07.1989 – the date when the said order in W.M.P. No. 5983 of 1989 was given;
- (iv) 07.01.1994 – the date when the said order was vacated;

- A           (v)     01.04.1998 – the date when the plaintiffs filed a writ appeal;
- (vi)    01.04.1998- when the High Court quashed the entire acquisition proceedings and on subsequent dates when the Housing Board filed the special leave petitions before this Court.

7.6 From the aforesaid, it can be seen that most of the cause of actions alleged are much prior to /prior to the execution of the registered Sale Deeds.

- C           7.7 Even the averments and allegations with respect to knowledge of the plaintiffs averred in paragraph 19 can be said to be too vague. Nothing has been mentioned on which date and how the plaintiffs had the knowledge that the document was obtained by fraud and/or misrepresentation. It is averred that the alleged fraudulent sale came to the knowledge of the plaintiffs only when the plaintiffs visited the suit
- D           property. Nothing has been mentioned when the plaintiffs visited the suit property. It is not understandable how on visiting the suit property, the plaintiffs could have known the contents of the sale deed and/or the knowledge about the alleged fraudulent sale.

- E           7.8 Even the averments and allegations in the plaint with respect to fraud are not supported by any further averments and allegations how the fraud has been committed/played. Mere stating in the plaint that a fraud has been played is not enough and the allegations of fraud must be specifically averred in the plaint, otherwise merely by using the word “fraud”, the plaintiffs would try to get the suits within the limitation, which otherwise may be barred by limitation. Therefore, even if the
- F           F submission on behalf of the respondents – original plaintiffs that only the averments and allegations in the plaints are required to be considered at the time of deciding the application under Order VII Rule 11 CPC is accepted, in that case also by such vague allegations with respect to the date of knowledge, the plaintiffs cannot be permitted to challenge the
- G           documents after a period of 10 years. By such a clever drafting and using the word “fraud”, the plaintiffs have tried to bring the suits within the period of limitation invoking Section 17 of the limitation Act. The plaintiffs cannot be permitted to bring the suits within the period of limitation by clever drafting, which otherwise is barred by limitation. At this stage, a recent decision of this Court in the case of **Raghwendra**
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**Sharan Singh (supra)** is required to be referred to. In the said decision, this Court had occasion to consider all earlier decisions on exercise of powers under Order VII Rule 11 CPC, which are considered by this Court in paragraphs 6.4 to 6.9 as under:-

**“6.4.** In *T. Arivandandam [T. Arivandandam v. T.V. Satyapal, (1977) 4 SCC 467]*, while considering the very same provision i.e. Order 7 Rule 11 CPC and the decree of the trial court in considering such application, this Court in para 5 has observed and held as under: (SCC p. 470)

“5. We have not the slightest hesitation in condemning the petitioner for the gross abuse of the process of the court repeatedly and unrepentantly resorted to. From the statement of the facts found in the judgment of the High Court, it is perfectly plain that the suit now pending before the First Munsif’s Court, Bangalore, is a flagrant misuse of the mercies of the law in receiving plaints. The learned Munsif must remember that if on a meaningful — not formal — reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Order 7 Rule 11 CPC taking care to see that the ground mentioned therein is fulfilled. And, if clever drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order 10 CPC. An activist Judge is the answer to irresponsible law suits.”

**6.5.** In *Church of Christ Charitable Trust & Educational Charitable Society [Church of Christ Charitable Trust & Educational Charitable Society v. Ponniamman Educational Trust, (2012) 8 SCC 706]*, this Court in para 13 has observed and held as under: (SCC p. 715)

“13. While scrutinising the plaint averments, it is the bounden duty of the trial court to ascertain the materials for cause of action. The cause of action is a bundle of facts which taken with the law applicable to them gives the plaintiff the right to relief against the defendant. Every fact which is necessary for the plaintiff to prove to enable

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- A him to get a decree should be set out in clear terms. It is worthwhile to find out the meaning of the words “cause of action”. A cause of action must include some act done by the defendant since in the absence of such an act no cause of action can possibly accrue.”
- B **6.6.** In ABC Laminart (P) Ltd. v. A.P. Agencies [(1989) 2 SCC 163], this Court explained the meaning of “cause of action” as follows: (SCC p. 170, para 12)
- “12. A cause of action means every fact, which if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the court. In other words, it is a bundle of facts which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an act no cause of action can possibly accrue. It is not limited to the actual infringement of the right sued on but includes all the material facts on which it is founded. It does not comprise evidence necessary to prove such facts, but every fact necessary for the plaintiff to prove to enable him to obtain a decree. Everything which if not proved would give the defendant a right to immediate judgment must be part of the cause of action. But it has no relation whatever to the defence which may be set up by the defendant nor does it depend upon the character of the relief prayed for by the plaintiff.”
- C
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- F **6.7.** In Sopan Sukhdeo Sable [Sopan Sukhdeo Sable v. Charity Commr., (2004) 3 SCC 137] in paras 11 and 12, this Court has observed as under: (SCC p. 146)
- “11. In ITC Ltd. v. Debts Recovery Appellate Tribunal [ITC Ltd. v. Debts Recovery Appellate Tribunal, (1998) 2 SCC 70] it was held that the basic question to be decided while dealing with an application filed under Order 7 Rule 11 of the Code is whether a real cause of action has been set out in the plaint or something purely illusory has been stated with a view to get out of Order 7 Rule 11 of the Code.
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12. The trial court must remember that if on a meaningful and not formal reading of the plaint it is manifestly vexatious and meritless in the sense of not disclosing a clear right to sue, it should exercise the power under Order 7 Rule 11 of the Code taking care to see that the ground mentioned therein is fulfilled. If clever drafting has created the illusion of a cause of action, it has to be nipped in the bud at the first hearing by examining the party searchingly under Order 10 of the Code. (See *T. Arivandandam v. T.V. Satyapal* [(1977) 4 SCC 467].)"

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**6.8.** In *Madanuri Sri Rama Chandra Murthy* [Madanuri Sri Rama Chandra Murthy v. Syed Jalal, (2017) 13 SCC 174], this Court has observed and held as under: (SCC pp. 178-79, para 7)

"7. The plaint can be rejected under Order 7 Rule 11 if conditions enumerated in the said provision are fulfilled. It is needless to observe that the power under Order 7 Rule 11 CPC can be exercised by the court at any stage of the suit. The relevant facts which need to be looked into for deciding the application are the averments of the plaint only. If on an entire and meaningful reading of the plaint, it is found that the suit is manifestly vexatious and meritless in the sense of not disclosing any right to sue, the court should exercise power under Order 7 Rule 11 CPC. Since the power conferred on the court to terminate civil action at the threshold is drastic, the conditions enumerated under Order 7 Rule 11 CPC to the exercise of power of rejection of plaint have to be strictly adhered to. The averments of the plaint have to be read as a whole to find out whether the averments disclose a cause of action or whether the suit is barred by any law. It is needless to observe that the question as to whether the suit is barred by any law, would always depend upon the facts and circumstances of each case. The averments in the written statement as well as the contentions of the defendant are wholly immaterial while considering the prayer of the defendant for rejection of the plaint. Even

- A           when the allegations made in the plaint are taken to be correct as a whole on their face value, if they show that the suit is barred by any law, or do not disclose cause of action, the application for rejection of plaint can be entertained and the power under Order 7 Rule 11 CPC can be exercised. If clever drafting of the plaint has created the illusion of a cause of action, the court will nip it in the bud at the earliest so that bogus litigation will end at the earlier stage.”
- C           **6.9.** In Ram Singh [Ram Singh v. Gram Panchayat Mehal Kalan, (1986) 4 SCC 364], this Court has observed and held that when the suit is barred by any law, the plaintiff cannot be allowed to circumvent that provision by means of clever drafting so as to avoid mention of those circumstances, by which the suit is barred by law of limitation.”
- D           **7.9** Applying the law laid down by this Court in the aforesaid decisions on exercise of powers under Order VII Rule 11 CPC to the facts of the case on hand and the averments in the plaints, we are of the opinion that both the Courts below have materially erred in not rejecting the plaints in exercise of powers under Order VII Rule 11(d) CPC. The respective suits have been filed after a period of 10 years from the date
- E           of execution of the registered sale deeds. It is to be noted that one suit was filed by the minor, which was filed in the year 2006, in which some of the plaintiffs herein were also party to the said suit and in the said suit, there was a specific reference to the Sale Deed dated 19.09.2005 and the said suit came to be dismissed in the year 2014 and immediately thereafter the present suits have been filed. Thus, from the averments
- F           in the plaint and the bundle of facts stated in the plaint, we are of the opinion that by clever drafting, the plaintiffs have tried to bring the suits within the period of limitation, which otherwise are barred by limitation. Therefore, considering the decisions of this Court in the case of **T. Arivandandam (supra)** and other decision of **Raghwendra Sharan Singh (supra)**, and as the respective suits are barred by the law of limitation, the respective plaints are required to be rejected in exercise of powers under Order VII Rule 11 CPC.
- G           8. In view of the above and for the reasons stated above, all these appeals succeed. The impugned common judgment and order passed
- H

by the High Court rejecting the revision applications and the orders passed by the learned Trial Court rejecting the respective applications under Order VII Rule 11 CPC and refusing to reject the plaints in exercise of powers under Order VII Rule 11 CPC are hereby quashed and set aside. The respective applications filed by the appellant herein – original defendant to reject the respective plaints on the ground that the same are barred by the law of limitation are hereby allowed. The respective plaints are hereby rejected on the ground that the same are barred by limitation.

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C

Divya Pandey and Anurag Bhaskar  
(Assisted by : Adnan Khan, LCRA)

Appeals allowed.