

SUPREME COURT OF INDIA

Venkatanatha Chary

Vs.

Nalla Raji Reddy

C.A.No.1322 of 2009

(B.N. Agrawal and G.S. Singhvi JJ.)

27.04.2009

ORDER

Leave granted.

1. Heard learned counsel for the parties.

2. The plaintiff-respondent filed a suit for specific performance of agreement dated 25th January, 1992. In terms of the agreement, the parties were required to perform their respective obligations by 31st March, 1992. By an order dated 3rd April, 2007, the trial Court, after taking note of the fact that the suit could have been filed within a period of three years from 31st March, 1992, when the cause of action is said to have accrued to the plaintiff but the suit was filed in the year 2006 held that the same is barred by limitation and accordingly rejected the plaint under Order VII Rule 11(d) of the *Code of Civil Procedure*. The High Court allowed the revision filed by the petitioner and set aside the order of the trial Court only on the ground that the same was passed without requiring the defendant to file written statement.

3. We have been taken through the plaint. A perusal thereof makes it clear that the cause of action for filing the suit for specific performance accrued to the plaintiff on 31st March, 1992. The limitation for filing such suit is three years. Therefore, the plaintiff could have filed the suit by 31st March, 1995. However, the fact of the matter is that the suit was filed in the year 2006 i.e. after 11 years of the expiry of the period of limitation. In this view of the matter, the trial Court was justified in rejecting the plaint on the ground of limitation and the High Court committed an error in reversing the order of the trial Court.

4. Accordingly, the appeal is allowed, impugned order of the High Court is set aside and the one passed by the trial Court is restored.