

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.06.2017**

CORAM:

THE HONOURABLE MR. **JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.277 of 2014

R.Balasubramaniam : Petitioner

versus

K.Savithri : Respondent

PRAYER: Revision filed against the order and decretal order in I.A.No.185 of 2013 in O.S.No.75 of 2010 dated 4.12.2013 pending on the file of the Principal Subordinate Court, Cuddalore.

For petitioner :: Ms.V.Usha,
for Mr.V.Balamurugane

For respondent :: Mr.S.Vijayakumar

ORDER

The respondent laid a suit for a money decree on the strength of a promissory note, alleged to have been executed by the petitioner. Before the Trial Court, the petitioner filed written statement denying execution of the promissory note.

2. After the commencement of trial, the petitioner filed an application in I.A.No.185 of 2013, seeking permission to file additional written statement. The petitioner wanted to take two defences, one relating to jurisdiction and another relating to limitation. The application was opposed

by the respondent by filing counter.

3. The Trial Court dismissed the application primarily on the ground that the plea regarding limitation has already been taken in the original written statement. The other reason appears to be the commencement of trial. Feeling aggrieved, the unsuccessful petitioner in I.A.No.185 of 2013 is before this Court.

4. The learned counsel for the petitioner contended that the suit was barred by limitation. The petitioner wanted to incorporate certain details as to why the suit was barred by limitation. The petitioner wanted to convince the Court that it had no jurisdiction to try the matter in view of the cause of action that took place at Neyveli.

5. I have also heard the learned counsel for the respondent.

6. The issue with regard to jurisdiction ought to have been taken by the petitioner at the earliest point of time and in any case, before framing issues. It is a matter of record that the petitioner has nowhere in his written statement taken up a contention with regard to jurisdiction. The petitioner subjected himself to the jurisdiction of the Subordinate Court at Cuddalore and contested the matter. It is too late to come up with a contention that the suit is not maintainable before the Subordinate Court at Cuddalore.

7. The petitioner has taken up another contention that the suit is barred by limitation. Even according to the respondent, necessary pleadings were already incorporated in the written statement filed in the suit with regard to limitation. Even in the order passed by the learned Trial Judge, there is an indication that the issue with regard to limitation has already been framed. The learned counsel for the petitioner contended that the petitioner wanted to incorporate certain statements to justify the contention that the suit is barred by limitation. The learned Trial Judge appears to have conducted a roving enquiry with regard to the merits of the claim made in the additional written statement and dismissed the application in its entirety.

8. After hearing the learned counsel for the parties and on a perusal of the documents available on record, I am of the view that interest of justice would be sub served by granting liberty to the petitioner to file additional written statement with regard to the question of limitation alone. In short, the additional written statement would be confined to the plea of limitation. The plea to take up an issue with regard to jurisdiction is rejected.

9. The learned Trial Judge is directed to receive the additional written statement and frame an issue with regard to limitation, in case the

issue to that effect has not been framed so far. The respondent is given



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K.K.SASIDHARAN, J.

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liberty to file additional pleadings if she is so advised, taking into account the additional written statement.

8. The civil revision petition is allowed to the extent indicated above.

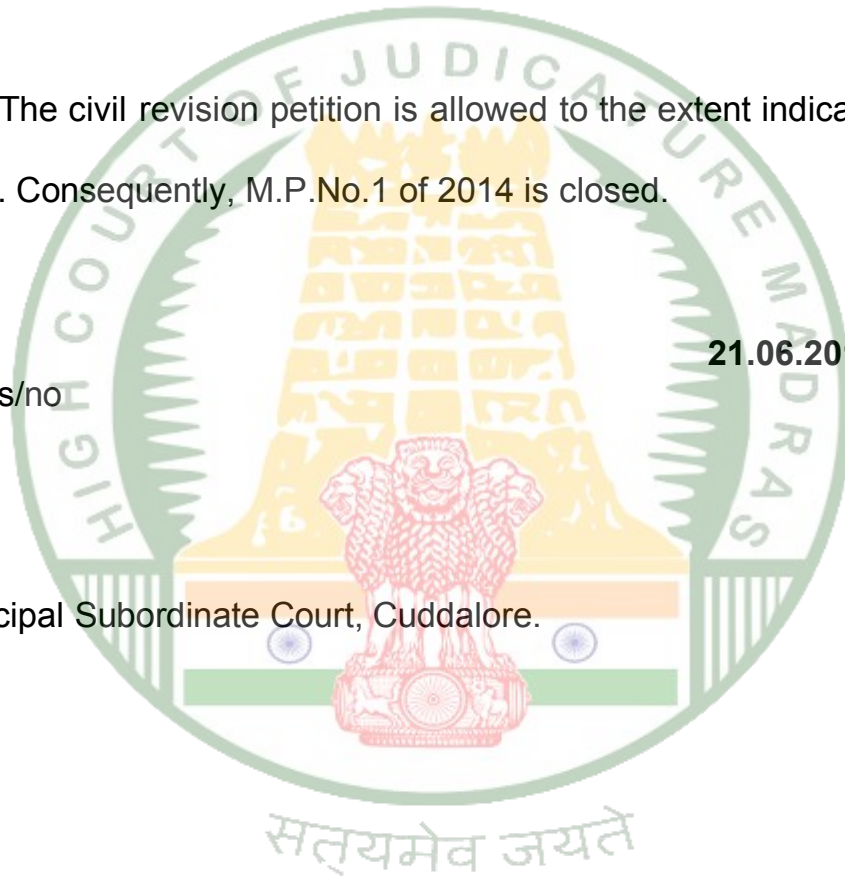
No costs. Consequently, M.P.No.1 of 2014 is closed.

21.06.2017

Index:Yes/no
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To

The Principal Subordinate Court, Cuddalore.



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