

## IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2017

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(NPD) NO.3568 OF 2017

Tamilnad Mercantile Bank Ltd.,  
Pondicherry.

Rep. by its Principal Officer and Branch Manager  
No.57, 59 and 61,  
Jawaharlal Nehru Street,  
Pondicherry - 1.

... Petitioner

Vs.

A.Pugazhendi Varma

... Respondent

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 06.02.2016 passed in Review Petition No.1/2014 in O.S.No.186/2008 by the Principal Sub Judge at Puducherry.

For Petitioner : Mr.S.Sethuraman

**ORDER**

This Civil Revision Petition is directed against the dismissal of the review petition filed by the petitioner.

2. The revision petitioner is the plaintiff in the suit. They have filed a suit for recovery of money to the tune of Rs.1,93,450/- with subsequent interest. The petitioner / plaintiff has stated that the respondent / defendant has paid various amounts on various dates totalling to Rs.5,00,000/-. The last of such payment was Rs.3,00,000/- on 07.02.2007 and the balance amount due was Rs.1,93,450/- as on the date of filing of the suit i.e. 29.10.2008. The respondent / defendant was set *exparte* in the suit. At a later point of time, the respondent / defendant has filed a petition to set aside the *exparte* decree and has also deposited Rs.1,00,000/- each on two different occasions. Again, the respondent / defendant was set *exparte*. The petitioner / plaintiff has filed statement of accounts in support of his claim upto the year 2014, wherein, the payment of Rs.2,00,000/- made by the respondent / defendant, in the year 2010, was not shown. Since the statement of accounts does not disclose the proper amount, the Trial Court has

dismissed the suit on 04.03.2014, against which, a review petition was filed showing the future interest calculated by the petitioner Bank. The Trial Court having found that there is no error apparent on the face of the record, dismissed the review petition, against which, the present Civil Revision Petition came to be filed.

3. From the perusal of the pleadings, it is seen that the Trial Court has given its findings on merits and has not adverted the calculation of interest at 17% per annum for future period subsequent to the institution of the suit. When the matter is decided on merits, it is always open to the petitioner / plaintiff to prefer an appeal. Instead, the petitioner has filed a review petition on untenable grounds. The Trial Court has rightly dismissed the review petition as it is not maintainable under Section 114 of the Civil Procedure Code or under Order 47 to decide the matter on merits once again. The findings of the Trial Court is very much correct and in accordance with law. It is open to the petitioner to challenge the judgment of the Trial Court on merits by filing an appeal in accordance with law.

4. In the result, the Civil Revision Petition is dismissed. No costs.

22.09.2017

Index : Yes/No

Internet : Yes/No

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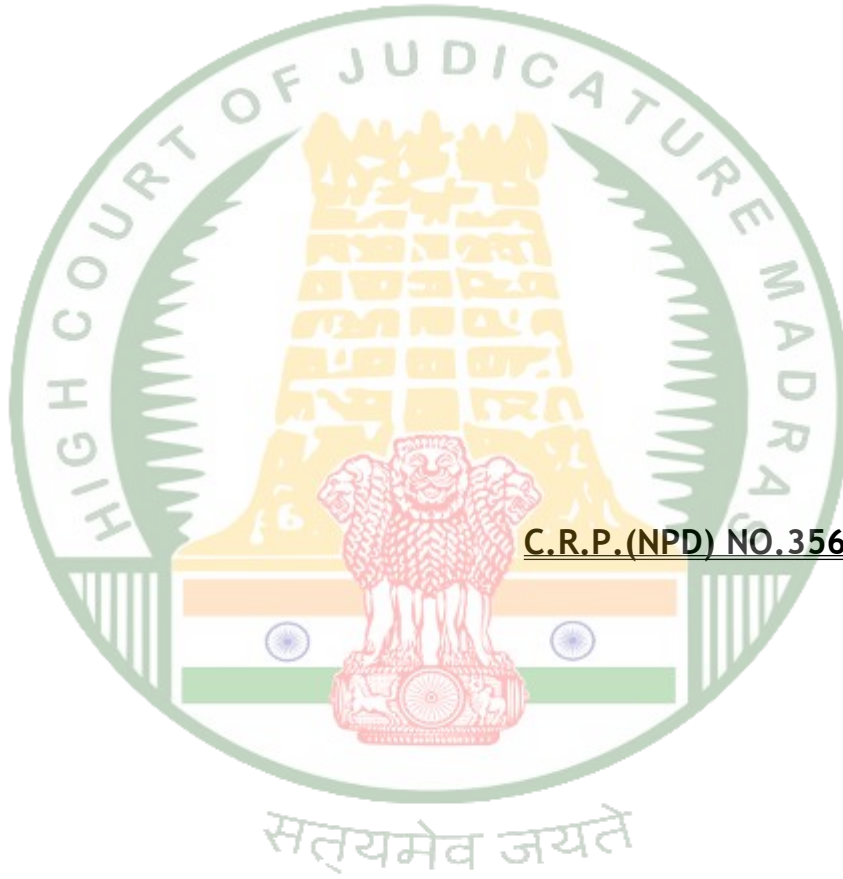
The Principal Sub Judge  
Puducherry.



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M.GOVINDARAJ, J.

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