

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 18.02.2019

**CORAM :**

**THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR**

**C.R.P. (NPD) Nos.3861, 3862 & 3863 of 2013**

Mr.S.Chandrasekaran

Petitioner

Vs.

Punjab National Bank,  
Rep. By its Branch Manager,  
Villupuram Branch,  
Villupuram.

Respondent

**PRAYER:** Civil Revision Petitions filed under Article 227 of the Constitution of India against the return Order dated 26.06.2007 passed in Memo Dairy No.3532 of 2007 in O.S.No.189 of 1986, 3535 of 2007 in O.S.No.1291 of 1984 and 3537 of 2007 in O.S.No.196 of 1986 on the file of the Principal District Munsif cum Judicial Magistrate, Villupuram.

For Petitioner : Mr.T.S.Baskaran

For Respondent : No appearance

**COMMON ORDER**

These revision petitions have been filed as against the Order of the trial Court for returning the memo filed by the revision petitioner to raise the attachment.

2. The revision petitioner has filed a memo to raise the attachment on the basis of the dismissal of the Execution petition itself in the year 1988. The Execution petitions filed in E.P.No.1046 of 1985, 273 of 1986, 1300 of 1986 and 190 of 1988 have been dismissed either for non prosecution or for there is no bidder. It appears that thereafter, no further Execution Petition has been filed even after 12 years of the attachment. At this stage, a memo has been filed to raise the attachment. The Execution Court returned the memo on the ground that since full satisfaction of the decree has not been recorded, the attachment cannot be raised. As against which the present revisions have been filed.

3. Heard the learned counsel for the revision petitioner. There is no representation for the respondent inspite of their name printed in the cause list and perused the records available on record.

4. Admittedly, the three suits in O.S.Nos.1291 of 1984, 196 of 1986 and

189 of 1986 were decreed on 21.09.85, 26.09.1986 and 04.08.1986 respectively and the Execution Petitions were filed in all the three suits. However, the Execution petitions have not been prosecuted and the other Execution Petitions filed in the year 1988 has also been dismissed for non prosecution. Thereafter, no Execution Petition has been filed. The Execution Petitions, which were dismissed for non prosecution and closed, have not been revived.

5. Admittedly, the bank has not taken any steps to execute the decree within 12 years. Though they have filed Execution Petitions within the period of limitation, those petitions have been admittedly dismissed in the year 1988 itself. Thereafter, till date no application has been filed for more than 20 years. In view of the same, the decree itself has become inexecutable. Since, execution has not been taken within a period of limitation of 12 years. In fact, the decree has become ineffective. Though Order 21 Rule 55 does not speak about ineffective decree to raise attachment but speaks about the decree which has been set aside or reversed, in that case, the attachment shall be deemed to be withdrawn. The same provision has to be pressed into service in these cases, since the decree itself has become ineffective for its non execution. There is no point in continuing the attachment.

6. Accordingly, these Civil Revision Petitions are allowed and the

Order returning the memo filed before the trial Court is set aside and the trial Court is directed to number the memo and issue a direction to the concerned Sub Registrar to raise the attachment. No cost.

**18.02.2019**

vrc

To

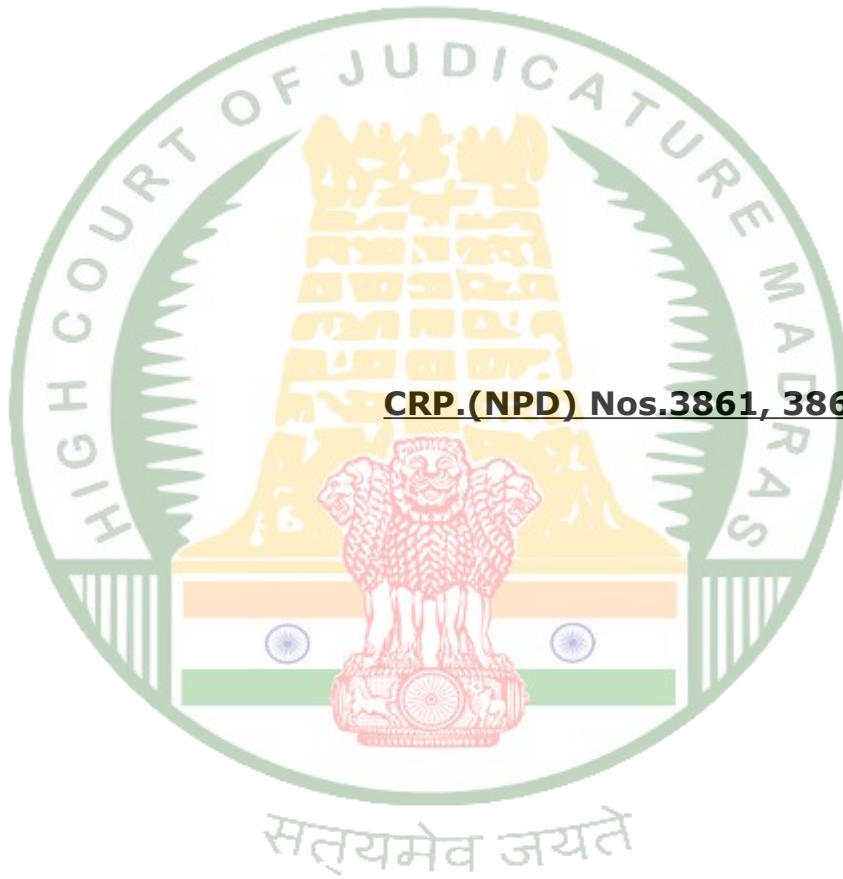
The Principal District Munsif –  
cum – Judicial Maigstrate,  
Villupuram.



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**N.SATHISH KUMAR, J.**

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of 2013**

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