

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2018

CORAM

THE HONOURABLE MS. JUSTICE P.T.ASHA

C.R.P.(PD)No.2029 of 2011

S.Janarthanan

... Petitioner

Vs

1. SYNDIACTE BANK
K.K.Nagar Branch,
Rep. by its Manager,
No.793, Ramasamy Salai,
K.K.Nagar,
Chennai-600 078.

2. E.Rajagopal

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order made in Application I.A.No.20067 of 2010 in O.S.No.3468 of 2010 dated 01.03.2011 passed by the Hon'ble XI Assistant City Civil Court, Madras, and to allow the above revision petition.

For Petitioner : Mr.S. Nagarajan

For Respondents : No Appearance for R1

:Not ready in notice for R2

ORDER

The above Civil Revision Petition is filed challenging the dismissal of the Interlocutory application filed by the revision petitioner herein, seeking leave to defend the suit O.S.No.3468 of 2010 in the file of the XI Assistant City Civil Court, Madras.

2. The facts of the case in briefs are as follows:

The first respondent/Bank had filed a suit for recovery of money for the personal loan borrowed by the second respondent from the first respondent/bank in which the revision petitioner has stood as guarantor. The respondent/Bank contended that the second respondent herein had borrowed a sum of Rs.2,50,000/-(Rupees Two lakhs and fifty thousand only) from the first respondent/Bank for his domestic needs and the revision petitioner had signed as a guarantor. As the second respondent did not come forward to clear the loan, the first respondent/Bank had filed a suit in O.S.No.3468 of 2010 on the file of the XI Assistant City Civil Court, Madras for recovery of a sum Rs.4,16,026/- together with interest @15.5% per annum, compounded monthly from the day of plaint from till date of payment. The said suit had been filed under Order XXXVII Rule 1 CPC.

3. On receipt of the notice, the revision petitioner had filed I.A.No.20067 of 2010 seeking leave to defend the said suit. The defence that he has put forward is that he had signed blank printed forms which has been misused to create the Guarantee Deed and apart from this defense, there is no other defense put forward by the revision petitioner. The application was resisted by the first

respondent/bank by contending that the second respondent had signed the loan documents and since the second respondent herein had not repaid the amount, the revision petitioner is liable to pay the said sum. The Bank had also pointed out that the Guarantee Deed signed by the revision petitioner, is also filed as Document No.4.

4. The learned XI Assistant City Civil Judge, who heard the application, dismissed the same stating that the defense which has been put forward by the revision petitioner is not supported by any other evidence. Challenging this order, the civil revision petition has been filed before this Court.

5. This Court heard Mr.S.Nagarajan, learned counsel appearing on behalf of the revision petitioner. The Bank though served, has not entered appearance through counsel and the notice sent to the second respondent has been returned with an endorsement "no such person". This Court, has taken up the application for hearing. On perusal of the records, it is seen that the only defence put forward by the revision petitioner is that he had signed blank forms. Apart from this defense, there is no other defense taken up by the revision petitioner. During the enquiry the first respondent: Bank has

produced the documents that had been signed by the revision petitioner, which clearly shows that the revision petitioner had knowingly executed the said document and having executed the said document, he cannot now feign ignorance. The defense is illusory and a sham one. Therefore, I do not find any infirmity in the above order passed by the learned Judge concerned.

6. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

23.10.2018

Index: Yes/No
Internet: Yes/No
jrs/gbi

To

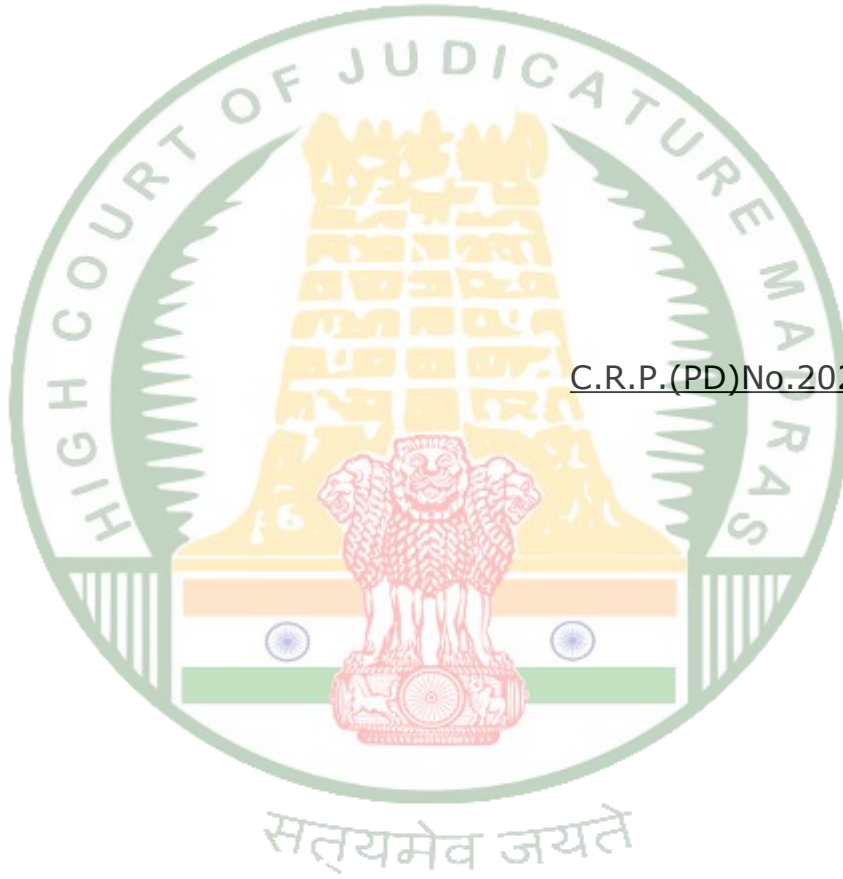
The XI Assistant City Civil Court, Madras

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P.T. ASHA. J,

(jrs/gbi)



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