

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2018

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.4497 of 2014
and M.P.No.1 of 2014

The General Manager-AAVIN
Erode District Co-operative Milk
Production Union Ltd.,
Vasavi College, Erode-4.

.. Petitioner

Vs

1.S.R.Ramasamy
2.V.Ashok Kumar

.. Respondents

Prayer:- Civil Revision Petition filed under Section 115 of C.P.C,
against the fair and decretal order dated 06.06.2013 made in
E.A.No.221 of 2012 in E.P.R.No.106 of 2008 on the file of the I
Additional District Munsif Court, Erode.

For Petitioner : Mr.P.Narayanamoorthy
For R1 : Mr.D.Gopal, caveator counsel
For R2 : Not ready in notice

ORDER

The Civil Revision Petition is filed against the fair and decretal
order dated 06.06.2013 made in E.A.No.221 of 2012 in E.P.R.No.106
of 2008 on the file of the I Additional District Munsif Court, Erode.

2. The petitioner is garnishee, the first respondent is decree
holder and second respondent is judgment debtor. The first respondent

filed E.P.R.No.106 of 2008 on the file of I Additional District Munsif Court, Erode, for attachment of the salary of the second respondent and to deposit the same into Court. The Executing Court, by order dated 29.08.2008, directed the petitioner/Garnishee to attach the salary of the second respondent i.e., Rs.2,000/- per month for 11 months and deposit the same into Court. From the materials available on record, it is seen that the petitioner has written a letter to the Government Pleader stating that the second respondent was not attending to his work from 29.09.2007 and no salary was paid to him. There is nothing on record to show that the said stand was brought to the notice of the learned Judge. Finally, the first respondent filed E.A.No.221 of 2012 under Order XXI Rule 46A and Section 151 C.P.C. for a direction to the petitioner to deposit a sum of Rs.29,791/- as per the order into Court. The petitioner entered appearance through the Government Pleader and contended that the second respondent was not working from 29.09.2007 and the Committee headed by the District Collector passed an order directing the petitioner to remove the second respondent from service. Based on the said order, the petitioner removed the second respondent from service with effect from 06.09.2012. The

learned Judge rejected the said contention on the ground that the petitioner has not filed any document to substantiate their stand and allowed E.A.No.221 of 2012 directing the petitioner to deposit a sum of Rs.29,791/- into Court within a period of one month from the date of that order.

3. Against the said order dated 06.06.2013 made in E.A.No.221 of 2012 in E.P.R.No.106 of 2008, the present Civil Revision Petition is filed by the petitioner/Garnishee.

4. Heard the learned counsel for the petitioner as well as the first respondent and perused the materials available on record.

5. From the materials available on record, it is seen that the petitioner has taken a stand that the second respondent was not attending to work from 29.09.2007 and no salary was paid to him. The second respondent was removed from service with effect from 06.09.2012. The Executing Court rejected the said contention on the ground that the petitioner has not produced any document to substantiate their stand. In view of the stand taken by the petitioner that the second respondent did not come to his office from 29.09.2007

and no salary was paid to him and the said stand was rejected by the learned Judge on the ground that no document was filed by the petitioner, the order of the learned Judge is set aside and E.A.No.221 of 2012 is remitted back to the Executing Court to give an opportunity to the petitioner to substantiate his case by producing document and letting in any oral evidence, if they so desire.

6. In the result, the Civil Revision Petition is allowed. The Executing Court is directed to dispose of E.A.No.221 of 2012 in E.P.R.No.106 of 2008 within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

22.02.2018

Index:Yes/No

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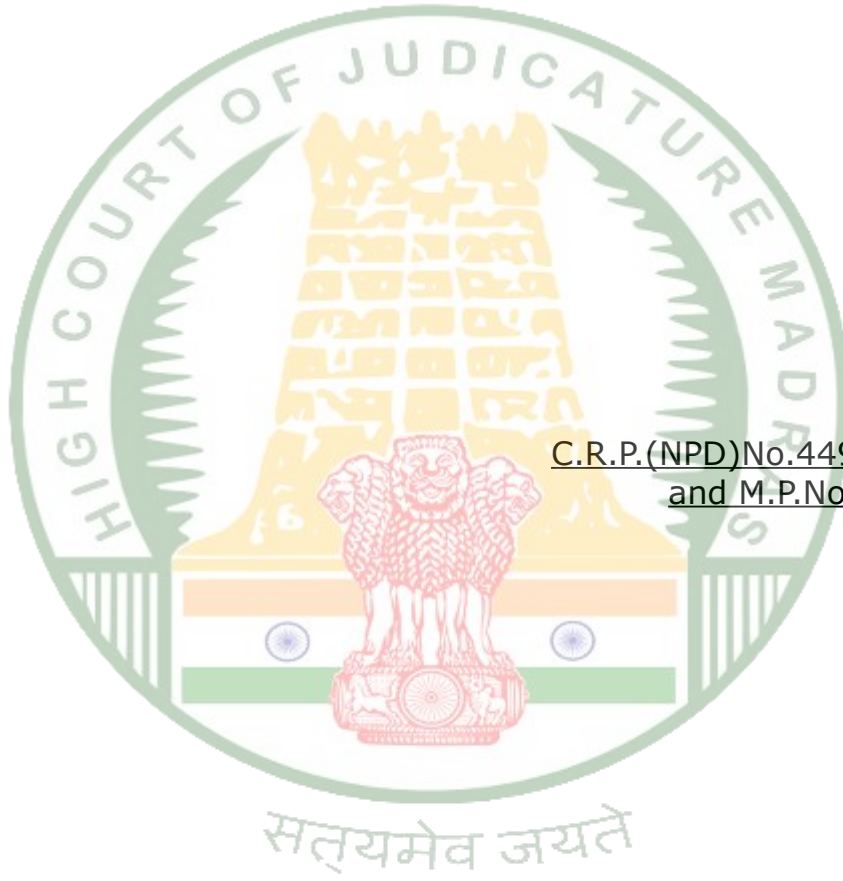
To

I Additional District Munsif, Erode.

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V.M.VELUMANI,J.

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