

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.1147 of 2012
& M.P.No.1 of 2012

S.Buddhan

.. Petitioner

Vs.

1.Margadarsi Chits Private Ltd.,
Flat No.1 & 2, 2nd Floor,
A-Wing, Parsn Manere,
602, Anna Salai,
Chennai 600 006.

2.Bharathi Enterprises,
Rep. By its Proprietor,
A.Murali,
Room No.167, 1st Floor,
Kavery Complex,
96-104, Nungambakkam High Road,
Chennai 34.

3.R.Madhusudan

4.E.T.Rafeek

5.K.Ramesh

.. Respondents

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C against the fair and decretal order dated 25.08.2011 made in E.P.No.1393 of 2009 in A.R.C.No.799 of 2005 on the file of the IX Assistant City Civil Court, Chennai.

For Petitioner : Mr.N.Kumar Rajan

For R1 : Mr.D.Sivakumaran

For R2, R4 & R5 : Not ready in notice

For R3 : Died

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 25.08.2011 made in E.P.No.1393 of 2009 in A.R.C.No.799 of 2005 on the file of the IX Assistant City Civil Court, Chennai.

2.The petitioner is 3rd judgment debtor, first respondent is decree holder, respondents 2 and 3 are the judgment debtors 1 and 2 and respondents 4 and 5 are the judgment debtors 4 and 5 in A.R.C.No.799 of 2005. The 1st respondent obtained an award dated 19.12.2015 in respect of the Chit transaction in which the 1st judgment debtor is subscriber and judgment debtors 2 to 5 are the guarantors. The petitioner and 5th respondent filed appeal and the same was dismissed. The first respondent filed E.P.No.1393 of 2009 under Order XXI Rule 35 of C.P.C against the petitioner and respondents 2 to 5 for attachment of movables belonging to them.

3.The petitioner filed counter affidavit and contended that the

first respondent deliberately has not proceeded against the 1st

judgment debtor, who is the successful bidder. The interest calculated is not correct and the amount claimed by the 1st respondent also is not correct.

3(a).The 5th judgment debtor also filed counter affidavit and objected to the attachment of movables belonging to him.

4.The Executing Court, by the order dated 25.08.2001, rejecting the objection of the 5th judgment debtor in the counter affidavit, dismissed E.P against the 2nd respondent/2nd judgment debtor and allowed E.P against the petitioner and 5th respondent /5th judgment debtor and ordered attachment of the movables of petitioner and 5th judgment debtor by 16.11.2011. The learned Judge also ordered fresh warrant against the 4th respondent/4th judgment debtor.

5.Against the said order dated 25.08.2011 made in E.P.No.1393 of 2009 in A.R.C.No.799 of 2005, the petitioner has come out with the present Civil Revision Petition.

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

7.From the materials available on record, it is seen that the

petitioner is one of the guarantor. The award has been passed against him as a guarantor and he is the 3rd judgment debtor. The appeal filed by him was dismissed. In the E.P, except stating that the amount calculated by the first respondent is not correct, the petitioner has not produced any material to substantiate his claim. The petitioner, as a guarantor is equally liable along with the borrower. Considering the above facts, I hold that there is no irregularity or illegality warranting interference by this Court with the order of the learned Judge dated 25.08.2011 made in E.P.No.1393 of 2009 in A.R.C.No.799 of 2005.

8.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

21.02.2018

Index : Yes/No

Speaking Order/ Non-Speaking Order

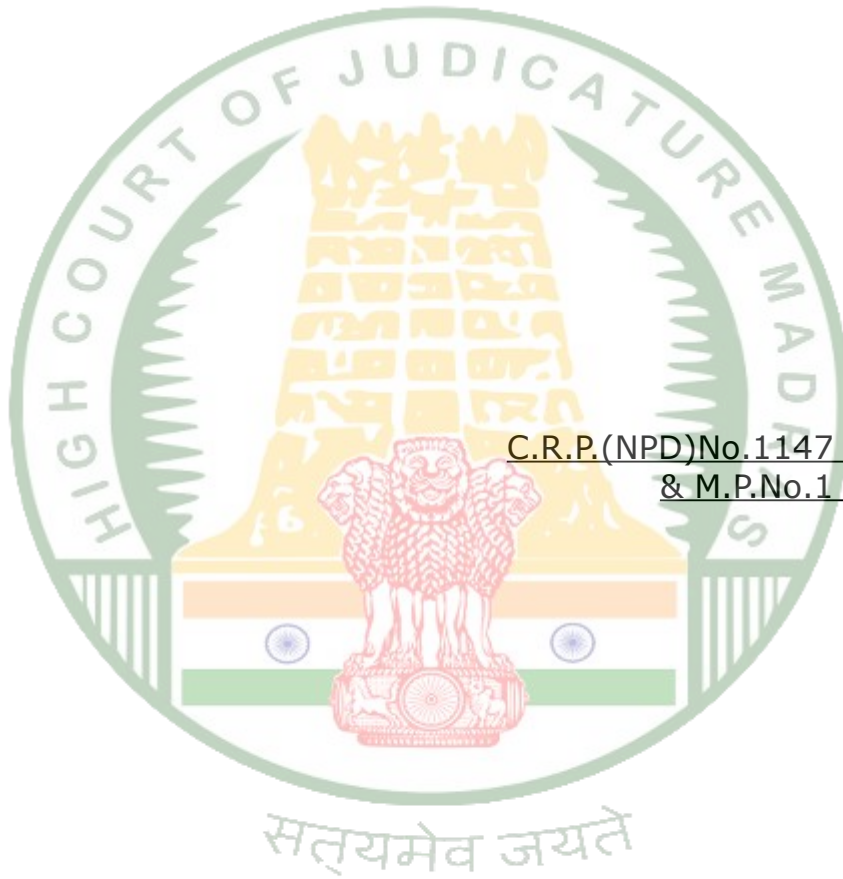
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To

The Judge,
IX Assistant City Civil Court,
Chennai.

V.M.VELUMANI,J.

gsa



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