

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.2777 of 2008
and M.P.No.1 of 2008

Nagarajan

.. Petitioner

Vs.

K.Venkatesan

.. Respondent

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C against the fair and decretal order dated 22.06.2007 made in I.A.No.7151 of 2007 in O.S.No.1220 of 2007 on the file of the II Assistant City Civil Court, Chennai.

For Petitioner : Mr.A.Muthukumar

For Respondent : Not ready in notice

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 22.06.2007 made in I.A.No.7151 of 2007 in O.S.No.1220 of 2007 on the file of the II Assistant City Civil Court, Chennai.

O.S.No.1220 of 2007 on the file of the II Assistant City Civil Court, Chennai. The respondent filed the said suit under Order XXXVII of C.P.C for recovery of money against the petitioner as under Chapter Suit. The petitioner filed I.A.No.7151 of 2007 under Order XXXVII Rule 3 of C.P.C read with Section 151 of C.P.C for leave to defend the suit. According to the petitioner, he did not borrow money from the respondent. The respondent's employer one Baliah took a blank promissory note in the year 2000 as a security for the chit transaction of one Manoharan with the said Baliah. The said Baliah is doing finance and chit transaction. He also took blank signed paper. The Baliah filled up the blank signed paper by incorporating the date as 07.04.2004, as if the petitioner borrowed a sum of Rs.75,000/- from the respondent. There are triable issues and prayed for unconditional leave to defend the suit.

3.The respondent filed counter affidavit and contended that the petitioner borrowed a sum of Rs.75,000/- and executed a promissory note, promising to repay the said amount altogether with interest at the rate of 24% p.a. The petitioner did not repay the said amount and did not send any reply to the notice issued by the respondent.

4.The learned Judge considering the averments in the plaint, affidavit and counter affidavit, dismissed the application holding that there are no triable issues.

5.Against the said order of dismissal dated 22.06.2007 made in I.A.No.7151 of 2007 in O.S.No.1220 of 2007, the petitioner has come out with the present Civil Revision Petition.

6.Heard the learned counsel for the petitioner and perused the materials available on record.

7.The contention of the learned counsel for the petitioner is that the petitioner has not borrowed any money from the respondent and petitioner gave a blank promissory note as security for the chit transaction of one Manoharan with one Baliah. In view of the same, the petitioner is entitled to unconditional leave to defend the suit and the petitioner has raised triable issues. These contentions are without merits. There is no semblance of triable issues. The petitioner admits the signature in the promissory note and claims that he executed a blank promissory note as a security for the chit transaction of one Manoharan with Baliah. He has not stated anything as to whether the said Manoharan defaulted in

payment of any amount due by him in respect of chit transaction with said Baliah. The learned Judge considering the admission of the petitioner of his signature in the promissory note, held that presumption in such circumstance is that the petitioner has received consideration. The learned Judge also considering Section 20 of Negotiable Instruments Act held that the holder of the promissory note is entitled to fill up the promissory note. Further the petitioner has not given any reply to the notice issued by the respondent.

8.The learned Judge considering all the above facts in entirety, dismissed the application holding that there is no triable issues raised by the petitioner. There is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 22.06.2007 made in I.A.No.7151 of 2007 in O.S.No.1220 of 2007.

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

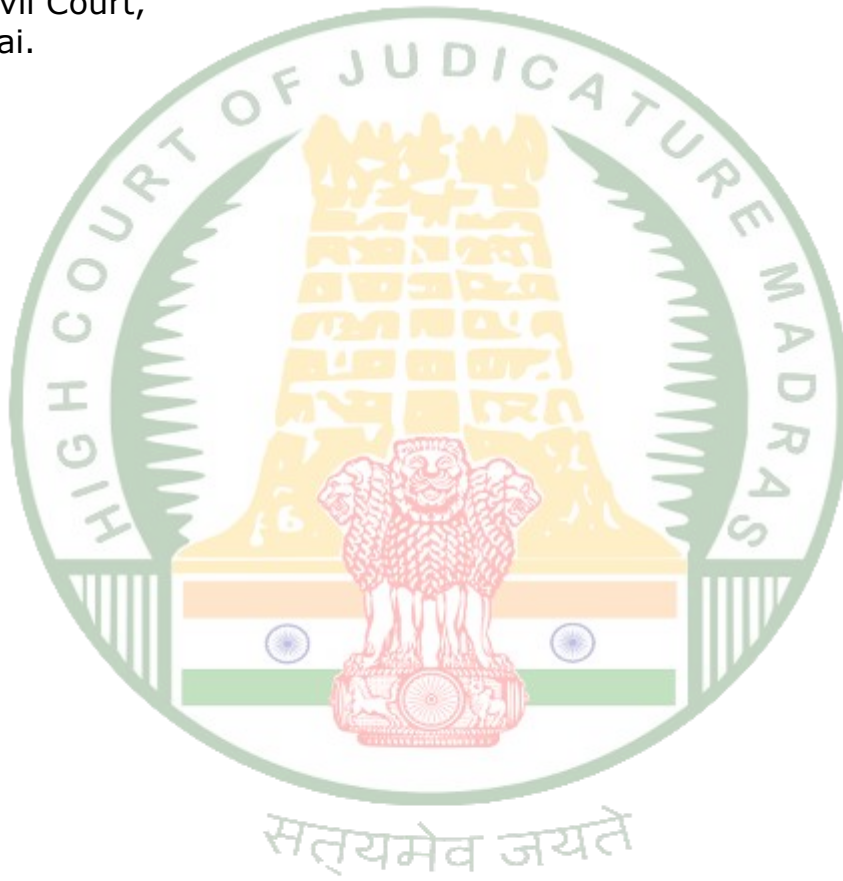
19.03.2018

Index : Yes/No

gsa

To

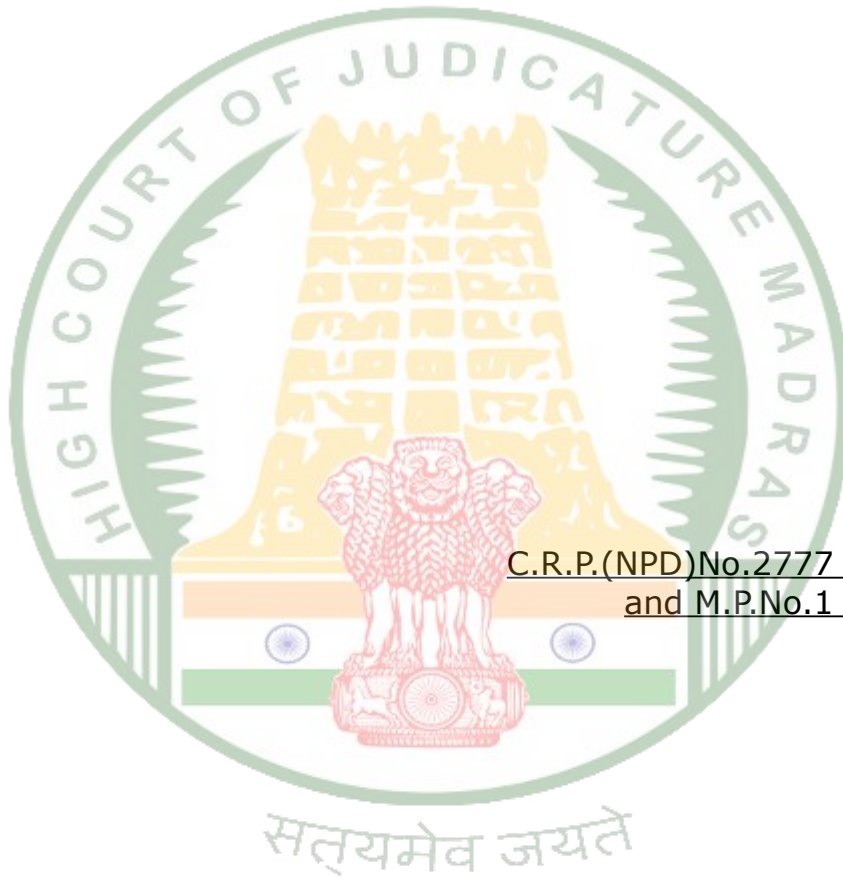
The II Assistant Judge,
City Civil Court,
Chennai.



WEB COPY

V.M.VELUMANI,J.

gsa



C.R.P.(NPD)No.2777 of 2008
and M.P.No.1 of 2008

WEB COPY

19.03.2018