



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.10.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) (PD) Nos.2194 and 2195 of 2018

and

C.M.P. (MD) No.9785 of 2018

S.Mokkaisamy ... Revision Petitioner/Petitioner/
Defendant (in both petitions)
Vs.

The Branch Manager,
State Bank of India,
Kullapuram, Kenguvarpatti Village,
Periyakulam Taluk,
Theni District.

... Respondent/Respondent/Plaintiff
(in both petitions)

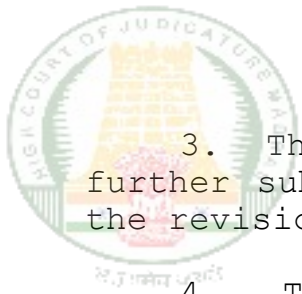
Common Prayer: Civil Revision Petitions - filed under Article 227 of the Constitution of India, to set aside the executable order and fair order dated 05.07.2018 made in I.A.No.128 and 129 of 2018 in O.S.No.28 of 2016 on the file of the Sub Court, Periyakulam and allow the civil revision petitions.

For Petitioner : Mr.J.Lawrance (in both petitions)

COMMON ORDER

The defendant in O.S.No.28 of 2016 on the file of the Sub Court, Periyakulam, is the revision petitioner herein. The revision petitioner availed mortgage loan from the respondent bank. Since he committed default in the manner of repayment, the bank filed a recovery suit. In the said suit, the revision petitioner filed two applications. One was for reopening the case. The other was to refer the document in question for expert opinion. The bank opposed both requests. The Court below accepting the stand of the bank, dismissed both Interlocutory Applications, namely, I.A.No.128 and 129 of 2018. Hence, these civil revision petitions have been filed.

2. When the matter was taken up for hearing, the learned counsel appearing for the revision petitioner submitted that the loan was availed for cultivation purpose. The Central Government has issued a scheme for waiving the interest. But then, the benefit of the scheme will not be available, if the loan has been
settling the revival letter.



3. The learned counsel appearing for the revision petitioner further submits that he is disputing the signature attributed to the revision petitioner in the revival letters.

4. The Court below has chosen to dismiss the IAs on the ground that the suit in question rests on the mortgage loan and that the revival has no relevance at all. But then, as pointed out by the learned counsel appearing for the revision petitioner, revival letters do have a bearing on the interest liability. Therefore, even while sustaining the order impugned in this civil revision petition, it is made clear that if the bank opposes the prayer of the revision petitioner in referring the revival letters for expert opinion, the bank would not be justified in placing reliance on the revival letters to defeat the revision petitioner's claim with regard to the waiver on interest.

5. With these observations, the civil revision petitions are disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar (CS-IV)

To:

The Sub Judge, Periyakulam.

+1 CC To MR.J.LAWRANCE, Advocate SR. NO. 89497

Common Order made in
C.R.P. (MD) (NPD) No. 2194 and 2195 of 2018
08.10.2018

SM

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