

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2019

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.R.P.(NPD) No.1748 of 2010

and

M.P.No.1 of 2010

S.N.Govindarajan

...Petitioner

..Vs..

Canara Bank
By its Manager,
Gopalapuram Branch,
Avvai Shanmugam Salai,
Chennai - 86.

...Respondent

PRAYER: Civil Revision Petition filed under Section 227 of the Constitution of India, to set aside the order and decree dated 19.01.2010 passed in I.A.No.2261 of 2009 in O.S.No.8856 of 2006 on the file of Vth Assistant Judge, City Civil Court, Chennai.

For Petitioner :Mr.T.K.S.Gandhi

For Respondent :Mr.K.R.A.Muthukrishnan

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ORDER

The judgment debtor has filed an application to set aside the exparte decree granted in O.S.No.8856 of 2006 with condone the delay petition, the same was allowed on condition that the petitioner/defendant deposits a sum of Rs.30,000/- and hence, the present revision.

2. The respondent/Canara Bank filed O.S.No.88 of 2006 against the Revision Petitioner and two other persons for recovery of principal amount Rs.72,757/- along with interest 16.5%. Since the loan was covered in nature and after filing the written statement the case was posted for trial. P.W.1 was not cross-examined by the defendant in the suit and hence, exparte decree was passed on 05.11.2008. The first defendant filed I.A.No.2261 of 2009 along with a petition to condone the delay of 58 days in filing petition to set aside the exparte decree on the ground that he went to Sabarimala Pilgrimage and his Advocate clerk had not note down the correct date, resulting in exparte decree being passed.

3. Taking into consideration all these facts, the trial Court has allowed the application. However, on condition to deposit Rs.30,000/- namely 50% of Rs.72,000/- which is the principal amount. The learned counsel contended that the condition imposed is exorbitant

onerous.

4. Taking into consideration the entire circumstances and the submissions made by the respective counsel, the condition imposed viz., deposit of Rs.30,000/- is reduced to Rs.25,000/-. Accordingly, the defendant is directed to deposit a sum of Rs.25,000/- on or before four weeks from the date of receipt of a copy of this order.

5. This Civil Revision Petition is allowed and I.A.No.2261 of 2009 to condone the delay petition, stands allowed. The trial Court is directed to dispose of the I.A within a period of twelve weeks thereafter. Though, the ground was raised with regard to the rate of interest, it is for the trial Court to decide the same as per the agreeable terms between the parties. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index:Yes/No

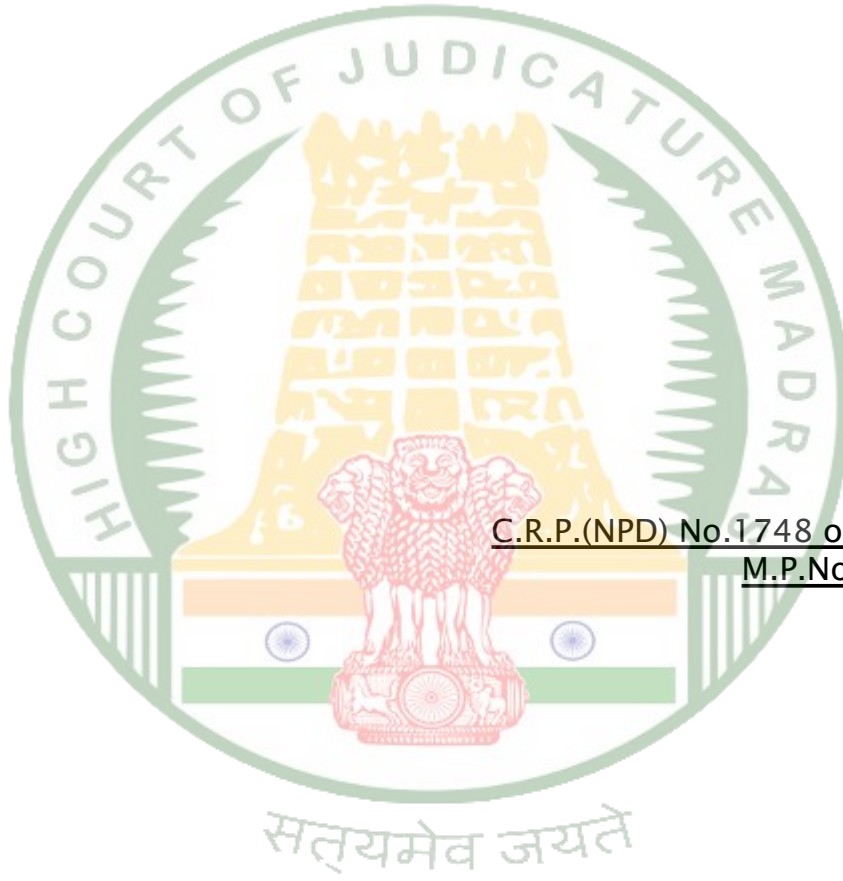
Speaking Order:Yes/No

To

The Vth Assistant Judge, City Civil Court, Chennai.

RMT.TEEKAA RAMAN,J.,

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