

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE **R.PONGIAPPAN**

C.R.P.NPD.Nos.3390 & 3391 of 2011
& M.P.Nos.1,1, 2 & 2 of 2011

N.Kamalakannan

.... Petitioner in
both petitions

Vs

1. The Co-operative Sub Registrar (Arbitrator)
O/o. The Deputy Registrar of
Co-operative Societies (Credit),
Chennai.

2. The Assistant General manager,
Tamil Nadu Apex Co-operative Bank Ltd.,
No.4, N.S.C. Bose Road, Chennai.

3. M.K.Shankar
4. K.Nirmala

.... Respondents in
both petitions

PRAYER in both petitions: Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 15.07.2011 of the Special Tribunal for Co-operative Societies cases/Chief Judge, Court of Small Causes at Chennai passed in C.M.A.No. 24 of 2010 and C.M.A.No.10 of 2008 respectively, confirming the order dated 27.09.2006 of the Co-operative Sub-Registrar (the first respondent herein) passed in A.R.C.No.113/2006-2007.

For Petitioner in
both petitions : Mr.M.Rajaraman

For Respondents
in both petitions

For R1 & R2 : Mr.L.P.Shanmugasundaram
Special Government Pleader
(Co.op)

For R3 : Given up

For R4 : No appearance

COMMON ORDER

Aggrieved over the common order dated 15.07.2011, passed in C.M.A.No.24 of 2010 and C.M.A.No.10 of 2008, by the learned Chief Judge (Special Tribunal for Co-operative Societies cases), Court of Small Causes, Chennai, by confirming the order dated 27.09.2006 passed in A.R.C.No.113/2006-2007, by the Co-operative Sub-Registrar, Chennai (the first respondent herein), the petitioner who is the second defendant in the above said claim petition, filed these revision petitions.

2. The petitioner in both the Civil Revision Petitions, viz., N.Kamalakaran, is a guarantor to the loan availed by the third respondent viz., M.K.Shankar. Initially, the third respondent in both the revision petitions availed a loan from the second respondent, for which the petitioner and one K.Nirmala were stood as guarantors. Since the loan availed by the third respondent has not been paid, the second respondent has initiated Arbitration proceedings in A.R.C.No.113/2006-2007, in which, an award was passed on 27.09.2006, as against the borrower as well as the guarantors. Challenging the said award, the petitioner and the said K.Nirmala, who are the guarantors,

have preferred two Civil Miscellaneous Appeals in C.M.A.Nos.24 of 2010 & 10 of 2008, respectively. Both the appeals have been dismissed by a common order dated 17.05.2011, by the learned Chief Judge (Special Tribunal for Co-operative Societies cases), Court of Small Causes, Chennai, by confirming the order dated 27.09.2006 passed by the Co-operative Sub-Registrar, Chennai passed in A.R.C.No.113/2006-2007.

3. Today when these two petitions are came up for hearing, the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents 1 & 2, are present.

4. The learned Special Government Pleader appearing for the respondents 1 & 2 made a submission that the loan availed by M.K.Shankar/borrower had already been closed on 27.10.2009, by availing interest waiver scheme announced by the Government of Tamil Nadu. Further, he added that the second respondent is ready to repay the amount remitted by the petitioner herein, which was kept in sundry creditors account.

5. On considering the above said submission made by the learned Special Government Pleader appearing for the respondents 1 & 2, it would clearly reveal the fact that the amount deposited by the petitioner herein was kept in the sundry creditors account. Even though it was contended on the

side of the respondents 1 & 2, the remitted amount will not have any interest, in order to substantiate the said argument no proof is available with the respondents 1 & 2. Therefore, the learned Special Government Pleader appearing for the respondents 1 & 2, undertakes to repay the amount remitted by the petitioner herein with nominal interest, which is fixed by this Court.

6. Recording the undertaken given by the learned Special Government Pleader appearing for the respondents 1 & 2, this Court is directed the second respondent to repay the amount remitted by the petitioner along with the interest at the rate of 7.5% per annum within a period of four weeks from the date of the receipt of a copy of this Order.

7. With the above direction, both the Civil Revision Petitions are disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order

Note : Issue order copy
on 24.09.2019

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To

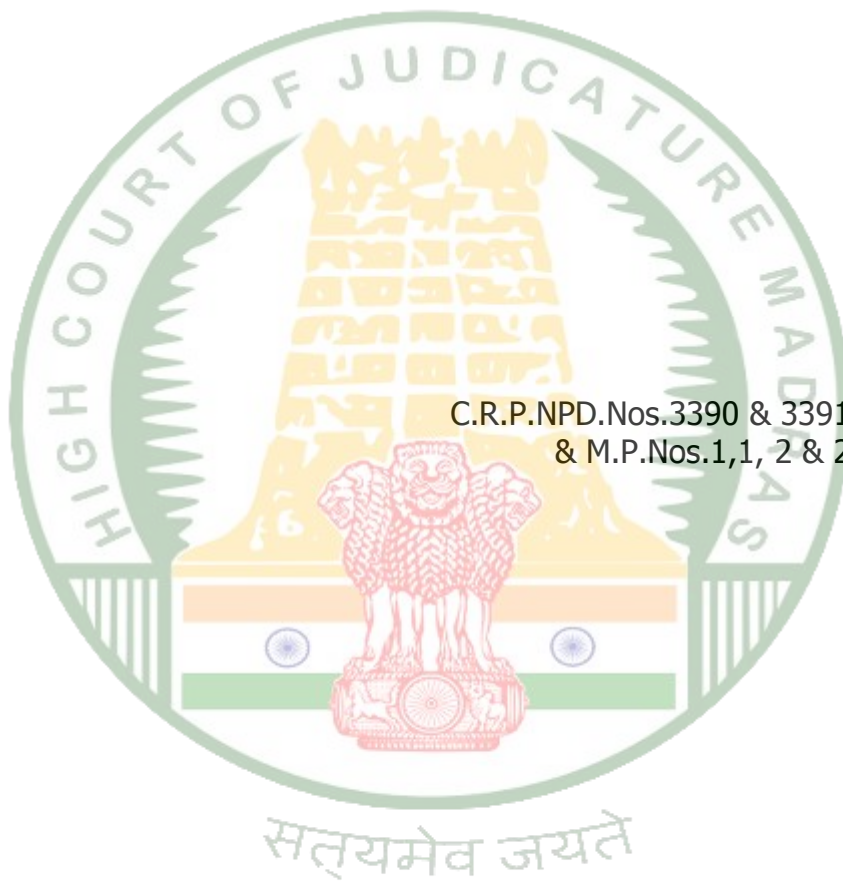
1. The Special Tribunal for Co-operative Societies cases,
Court of Small Causes
Chennai.
2. The Co-operative Sub Registrar (Arbitrator)
O/o. The Deputy Registrar of
Co-operative Societies (Credit),
Chennai.
3. The Assistant General manager,
Tamil Nadu Apex Co-operative Bank Ltd.,
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R.PONGIAPPAN, J.

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