

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2019

CORAM

THE HONOURABLE MR.JUSTICE M.S. RAMESH

Civil Revision Petition (NPD) No. 4688 of 2015

and
M.P. No. 1 of 2015

S.Ravi ... Petitioner

Vs.

1.N.Gajendran ... Respondent

2.The Forest Ranger Officer
Forest Office, Amirthi Forest
Amirthi Village and Post
Vellore Taluk & District. ... Garnishee /
2nd Respondent

Prayer : Revision filed under Section 115 of the Code of Civil Procedure, to set aside the fair and decreetal order passed by the court below are illegal and irregular.

For Petitioner : Mr.K.M.Ramesh

For Respondents : No appearance [For R1&R2]

ORDER

The order under challenge in the present revision is against the order of attachment of the salary of the petitioner herein. It is seen that the suit was initiated in the year 2010 for recovery of money due on a promissory note. In the suit, which came to be decreed in the year 2014 the petitioner

herein was set exparte. The petitioner has not chosen to file any application to set aside the exparte decree nor the appeal against the order. As such the judgment and decree of the trial court would be binding on the Execution Court.

2.The learned counsel for the petitioner submitted that the promissory note was not executed by the petitioner herein and that the respondents had failed to pay the chit subscription amount. The learned counsel further submitted that since the judgment was an exparte judgment, they did not have an opportunity to put forth their defence before the trial court. The learned counsel also submitted that the execution court is not justifying in attaching the entire salary including the allowances.

3. I am not in conformity with the submissions made. Firstly, if at all the petitioner herein is aggrieved against the judgment and decree and he ought to have either made out an application to set aside the exparte decree or should have filed an appeal against the exparte decree. Having failed to do so, the grounds, which are now raised cannot be sustainable in an execution proceedings. As such the court below is justified in ordering for attachment of the salaries permissible.

4. In the light of the above, I do not find any merits in the above Civil Revision Petition and the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

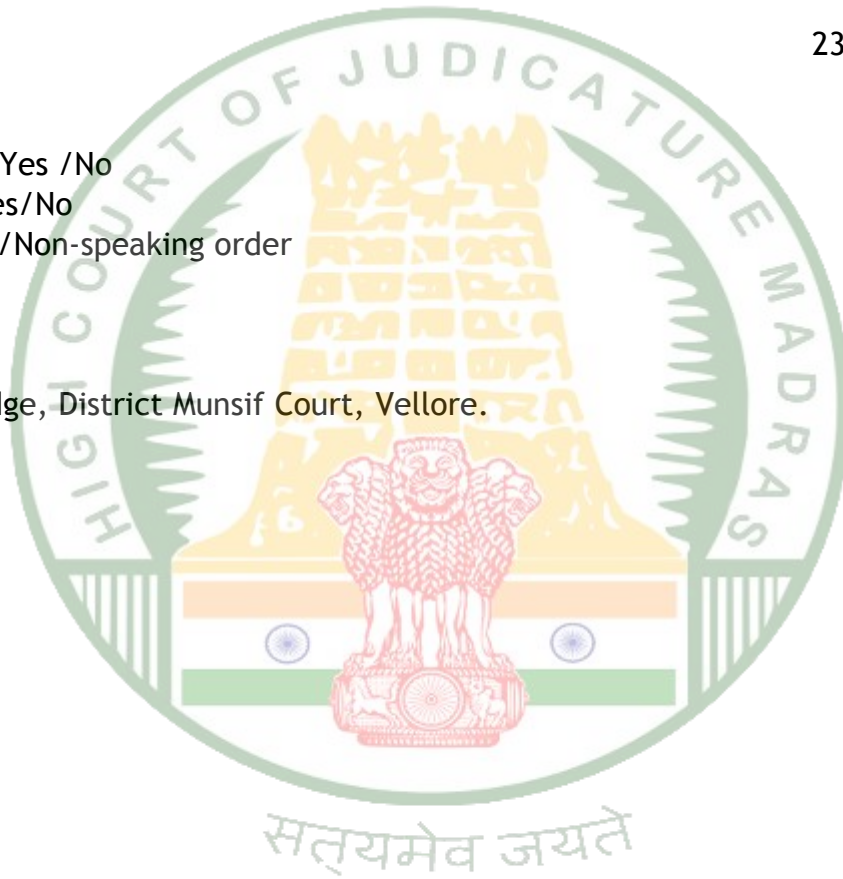
23.01.2019

may

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

To

1.The Judge, District Munsif Court, Vellore.



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M.S.RAMESH, J.

may



C.R.P.(NPD) No. 4688 of 2015

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Dated : 23.01.2019