

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.02.2019
CORAM
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
CRP NO.3163 OF 2013 and
M.P.No.1 of 2013

K.N.Pandian

... Revision Petitioner/Petitioner/ Respondent/Defendnat

Vs.

State Bank of India
Villupuram

... Respondent/ Respondent / Petitioner/ Plaintiff

Prayer: Civil Revision Petition filed under Section 115 of the Civil Procedure Code to set aside the fair and decreetal order dated 04.06.2013 passed by the I Additional Sub-Judge, Cuddalore in E.A.No.29 of 2013 in E.P.No.43 of 2002 in O.S.No.180 of 1986.

For Revision Petitioner : Mr.D.Baskar
For Respondent : Mr.P.Elayarajkumar

JUDGMENT

Revision Petition filed against the order dated 04.06.2013 passed by the I Additional Sub-Judge, Cuddalore in E.A.No.29 of 2013 in E.P.No.43 of 2002 in O.S.No.180 of 1986, dismissing the application filed for receiving additional counter affidavit.

2. The additional counter affidavit sought to be filed was after the first round of litigation decided by this court in CRP (NPD) No.1166 of 2006 dated 02.11.2012. While deciding the said civil revision petition, this court held thus.

"10. In that view of the matter, this court is of the view that the matter has to be remitted to the executing court for fresh consideration. Accordingly, the civil revision petition is allowed and the impugned order is set aside and the matter is remanded to the Executing Court for fresh sale proclamation giving the current market value of the property as on date. Hereafter, the Executing Court shall also

examine the contention as to whether the petitioner has remitted any amount pending the execution petition and as to whether the said amounts have been given credit by the respondent bank and thereafter, the executing court shall proceed in accordance with law. Since the preliminary decree was passed as far back as on 15.02.1989, the Executing Court is directed to conclude the proceedings within a period of two months from the date of receipt of a copy of this order. It is needless to state that the petitioner shall co-operate for the conduct of the execution petition. "

Thereafter, the revision petitioner filed an application in E.A.No.29 of 2013 in E.P.No.43 of 2002 seeking permission to file an additional counter for giving details about the payments and schemes which would enure to his benefit. However, the trial court has simply dismissed the application stating that no such remittance amount, details furnished as on date. As against the order passed by the trial court, this revision petition has been filed.

3. Admittedly, the petitioner is wanted to avail the benefits under "Agricultural Debt Waiver and Debt Relief Scheme 2008" at the relevant point of time and also wanted to give details with regard to the payments made by him. In such circumstances, this court is of the view that one more opportunity to be granted to the revision petitioner to file additional counter.

4. Accordingly, this civil revision petition is allowed. The respondent is directed to consider the schemes, which were introduced for the benefit of the agriculturists and if the petitioner is entitled to avail the benefits under "Agricultural Debt Waiver and Debt Relief Scheme 2008 " at the relevant point of time, the respondent shall extend such benefit to the revision petitioner.

5. With the above directions, this civil revision petition is allowed. No costs. Consequently, connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS)

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Sub Assistant Registrar

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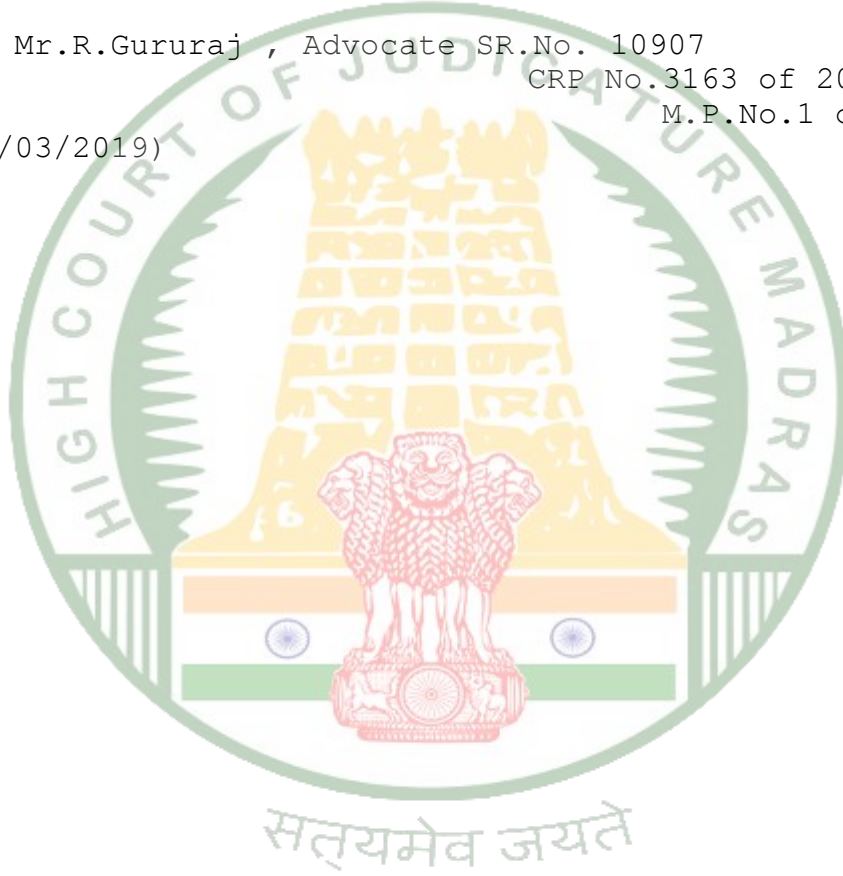
The I Additional Subordinate Judge,
Cuddalore.

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+1cc to Mr.Ramalingam Associates , Advocate SR.No.10972

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A.SK(14/03/2019)



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