

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On : 27.11.2019

Pronounced On : 03.12.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.PONGIAPPAN

Civil Revision Petition (NPD) No.3266 of 2013
and M.P.No.1 of 2013

1. G.Ravindranath
2. N.Balaraman

.. Petitioners

Vs

1. Sriram City Union Finance Ltd.,
rep. By its Authorised Signatory,
G.P.A.Holder,
Bhavani Plaza, Hosur - 635 109.

2. B.Gopal

.. Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, to set aside the Fair and Decretal order dated 15.07.2013 made in REP No.20 of 2013 in Trade Original Petition No.5 of 2010 on the file of learned Subordinate Judge of Hosur.

For Petitioners : Mr.J.Hariharan

For Respondents : No appearance.

ORDER

The respondents 2 & 4 / judgment debtors 2 & 4 in Trade Original Petition No.5 of 2010 and R.E.P.No.20/2013 on the file of the Sub Court, Hosur, are the petitioners herein.

2. Before filing the execution petition, the respondents herein initiated arbitration proceedings against the revision petitioners before the competent Court i.e. District Registrar, Krishnagiri for recovery of amount due on cheque transactions. After initiation of the said arbitration proceedings, the same has been allowed, in favour of the respondents and thereafter, the decree has been made over to the Sub Court, Hosur for executing the decree.

3. After transmitting the decree, the learned Subordinate Judge, Hosur, took cognizance in REP No.20 of 2013 and allowed the application on 15.07.2013, in which the garnishee of the revision petitioners were directed to deposit the execution petition amount in the Court. Aggrieved over the same, the petitioners are before this Court, with the present Civil Revision Petition.

4. Today, when the Civil Revision Petition came up for hearing, there is no representation on the side of the respondents.

5. On the other hand, the learned counsel appearing for the petitionera was present and would contend that immediately after closing

the arbitration proceedings, the arbitrator is having the duty to deliver the signed copy of the arbitral award to the parties concerned. But, in this case, no copy of the arbitral award has been sent to them-. Therefore, the decree passed by the arbitrator is non est in law.

6. On considering the arguments advanced by the learned counsel appearing for the petitioner, it is necessary to see Section 31(5) of Arbitration and Conciliation Act, 1996, which reads as follows:

“After the arbitral award is made, a signed copy shall be delivered to each party”

7. Therefore, it is mandate on the part of the arbitrator to deliver the signed copy of the award to them, so as to enable the revision petitioners to file an application under Section 34 of the Arbitration & Conciliation Act, 1996 which is for setting aside the arbitral award.

8. But here it is the case where the arbitrator, after passing the award on 23.04.2011, has not sent the copy the same to the petitioners. Further, the petitioners herein, on 17.04.2013, have sent a letter to the arbitrator for furnishing the copy of the award passed. Once again on

22.06.2013, the 1st petitioner herein, has sent a letter to the arbitrator for furnishing the copy of the award. Though, the said letters were received by the arbitrator, so far the arbitrator has not furnished any copy of the award to the petitioners.

9. Therefore, the said attitude of the arbitrator is against the mandatory principle provided in Section 31(5) of the Arbitration and Conciliation Act, 1996. Hence, considering the above facts and circumstances, this Court is of the opinion that the decree passed by the Arbitrator is null and void.

10. Further, though the contention raised here by the petitioners are raised before the learned Subordinate Judge, Hosur, the said Court, has not considered the same appropriately and allowed the application filed by the respondents herein, which is erroneous in law. Therefore, interference of this Court is necessary in the impugned order passed by the 1st respondent.

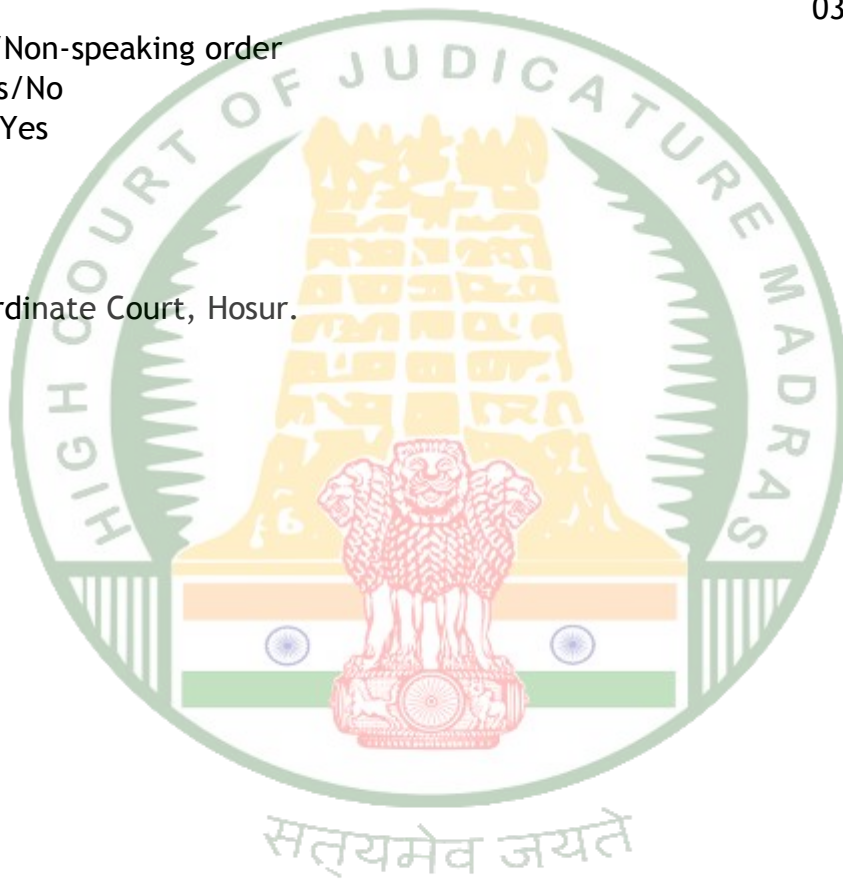
11. In view of the above, the order impugned herein viz. the order dated 15.07.2013 made in REP No.20 of 2013 in Trade Original Petition No.5 of 2010, on the file of the learned Subordinate Judge, Hosur, is set aside.

The Civil Revision Petition is allowed. No Costs. Consequently, the connected Miscellaneous Petition is closed.

03.12.2019

Speaking/Non-speaking order
Index: Yes/No
Internet: Yes
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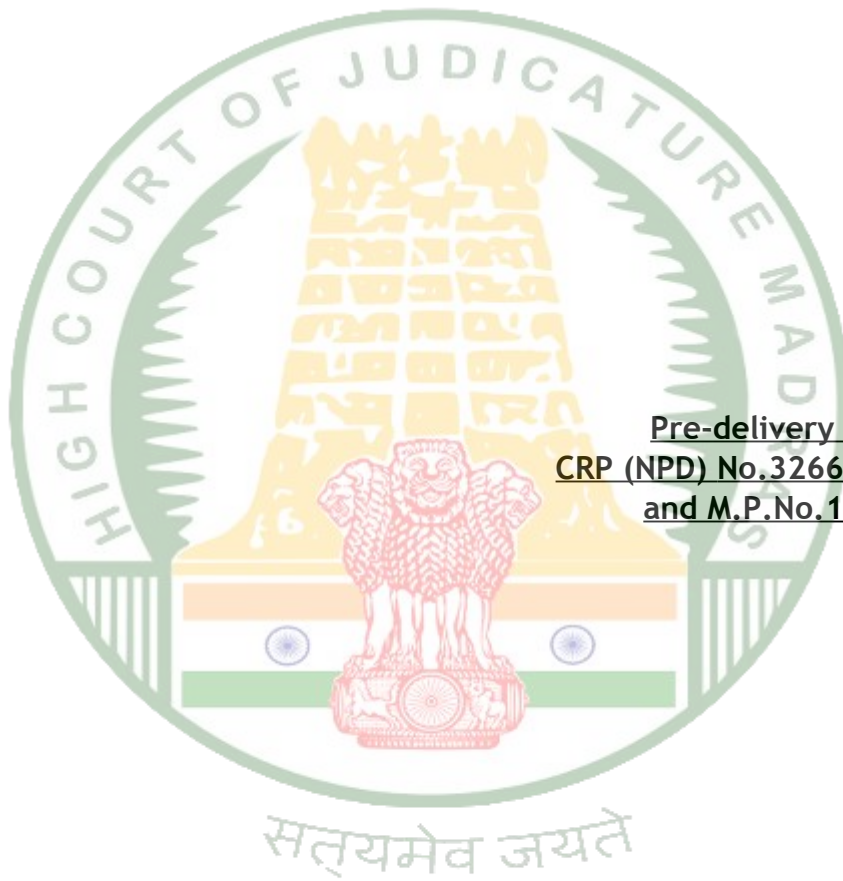
To
The Subordinate Court, Hosur.



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R.PONGIAPPAN, J.,

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Pre-delivery Order in
CRP (NPD) No.3266 of 2013
and M.P.No.1 of 2013

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