

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P(NPD).No.107 of 2016

Manimegalai

...Petitioner

Vs

Sriram City Union Finance

... Respondent

Prayer: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure against the order dated 02.09.2015 passed in E.A.No.13 of 2014 in E.P.No.7 of 2013 in A.C.P.No.5 of 2011 on the file of the III Additional District and Sessions Court, Cuddalore at Virudhachalam (Motor Accident Claims Tribunal, Cuddalore at Virudhachalam).

For Petitioner : Mr.P.Mani

For Respondent : No Appearance

ORDER

The unsuccessful Judgement Debtor in E.A.No.13 of 2014 in E.P.No.7 of 2013 on the file of the III Additional District Judge, Virudhachalam is the revision petitioner before this Court.

2.The respondent Finance Company had filed proceedings before the Sole Arbitration Tribunal, Chidambaram and against the revision petitioner and two others and obtained an award of sum of Rs.10,87,367/- including interest at the rate of 18% per annum from 22.01.2011 till the date of realisation. The revision petitioner is the 3rd respondent and she is a guarantor for the loan taken by the 1st respondent.

3.Pursuant to the said order of award the respondent had moved an Execution Proceedings in E.P.No.7 of 2013 on the file of the Additional District and Sessions Court, Virudhachalam for attaching the property of the revision petitioner. The revision petitioner had taken out an application under Section 47 of the Code of Civil Procedure on

receipt of the notice stating that the amounts had been repaid.

4.The respondents in Paragraph No.5 and 6 admitted that as on 10.10.2008 there was a total outstanding of Rs.5,11,641. They would further state that the following amounts had been paid by the respondent thereafter:

13.10.2009	Rs.4,04,59
30.08.2012	Rs.70,000/- & Rs.30,000/-
03.11.2012	Rs.75,000/-

in all a sum of Rs.5,75,059/- had been repaid after 10.10.2008 on which date even according to the respondent only a sum of Rs.5,11,641/- was due.

5.The learned III Additional District and Sessions Court, Cuddalore at Virudhachalam has totally overlooked this admission of the respondent and has not given credit to the payments. It is also submitted that a sum of Rs.5,00,000/- has been deposited pursuant to orders of this Court in the stay petition. The order dated 02.09.2015 passed in E.A.13 of 2014 without taking into account the payments made by the revision petitioner is per se perverse and is liable to be

set aside and is therefore set aside and the Civil Revision Petition is allowed.

6.It is also stated that the sum of Rs.5,00,000/- is lying to the deposit of the Execution proceedings. From the statement which has been extracted from the counter and the respondent it is clear that the outstanding of Rs.5,75,000/- was repaid by making periodic payments and bulk of which has been made on 13.10.2009 and therefore the Court shall refund the sum of Rs.5,00,000/- less the interest that had accrued after 10.10.2008 on the principal amount due to the Decree Holder.

The above Civil Revision Petition is allowed on the above lines.
There shall be no order as to costs.

22.02.2019

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Index : Yes/No
Speaking order/non-speaking order

To,
The III Additional District and Sessions Court,
Cuddalore at Virudhachalam.

P.T.ASHA, J.,

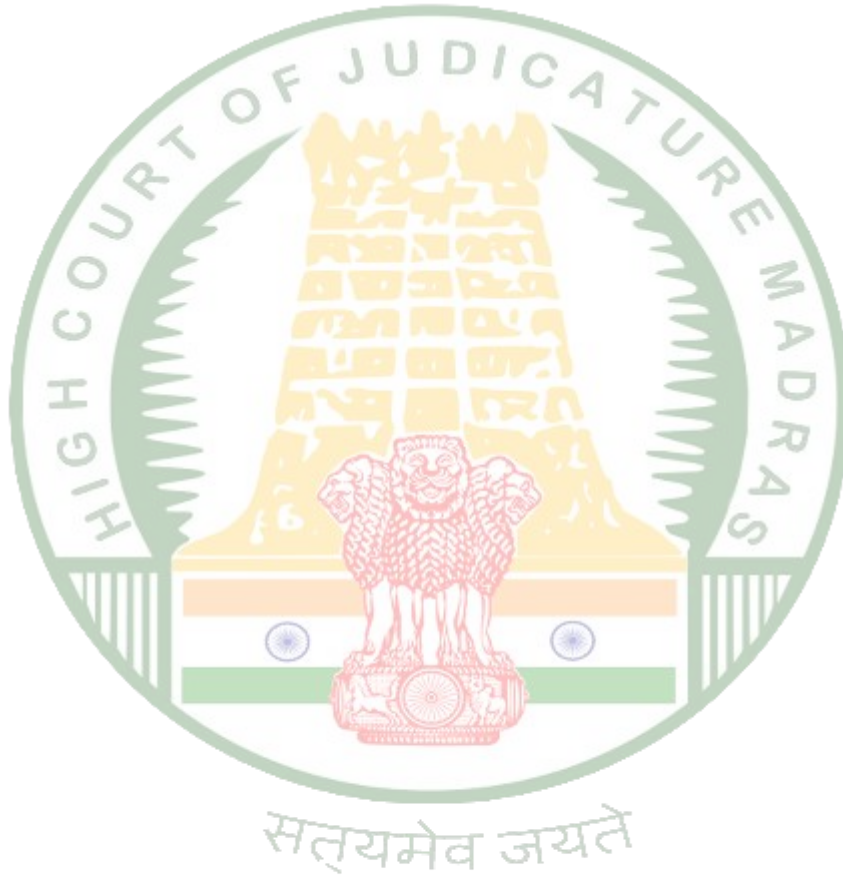
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