

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2019

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

C.R.P.(NPD).No.1414 of 2014

M/s.UCO Bank,
Rep.by its Chief Manager M.Rajamohan,
S/o.M.Marimuthu,
T.Nagar Branch,
No.67 Burkit Road,
Ground Floor, T.Nagar,
Chennai 600 017. ... Petitioner

Vs.

1.M/s.Sathayam,
Rep.by its Proprietor,
Mr.R.Murugesan,
Old No.32A, New No.62A,
Veerabadran Street,
Nungambakkam, Chennai – 600 034.
2.Mrs.K.Sathya ... Respondents

PRAYER: Civil Revision petition is filed under Section 115 of CPC, to set aside the judgment and decree dated 04.12.2013 passed in I.A.No.4497 of 2013 in O.S.No.8502 of 2011 by the Hon'ble XIII Assistant City Civil Court, Chennai.

For Petitioner : Mr.V.Suthakar

For Respondents : Mr.V.K.SenthilKumar

ORDER

The present Civil Revision Petition has been filed against the fair and decreetal order dated 04.12.2013 passed by the XIII Assistant City

Civil Judge, Chennai in I.A.No.4497 of 2013 in O.S.No.8502 of 2011.

2.The petitioner had filed above suit to recover the loan amount of Rs.5,52,020/- from the respondents together with interest and cost.

3.After the suit was filed the defendants/respondents also filed their written statement. However, on 27.08.2012 the defendants/respondents filed a memo along with an order of DRT-II. Recording the Memo of the defendants'/respondents' evidence was closed and the suit was dismissed.

4.Heard the defendants/respondents and there was no representation for the plaintiff/petitioner. The plaintiff argument was closed after pursuing the record, the judgment was delivered on same day.

5.It is noticed of the judgment was passed on merits and not dismissed the suit for non-prosecution, even though, the petitioner was not present at the time of hearing.

6.Aggrieved by the judgment and decree dated 27.08.2012, the petitioner had filed I.A for condoning the delay 133 days in filing the petition for restoration and to set aside the judgment and decree dated

on 27.08.2012. This application was dismissed by the Court which is impugned in this Civil Revision Petition.

7.The Civil Revision Petition filed by the petitioner is not maintainable as the petitioner has an alternative remedy by way of appeal against the judgment and decree dated 27.08.2012 passed by the lower Court.

8.Consequently, the present Civil Revision Petition is dismissed to while giving liberty to the petitioner to approach the Appellate Court. Needless to say the time spent before the Lower Court and before this Court shall stand excluded for computation of limitation.

9. In case an appeal is filed, the Appellate Court is directed to number it and take it up on merit and dispose it in accordance with law.

10.The present Civil Revision Petition stands dismissed with above directions. No costs.

07.03.2019

Index :Yes/No

Internet :Yes/No

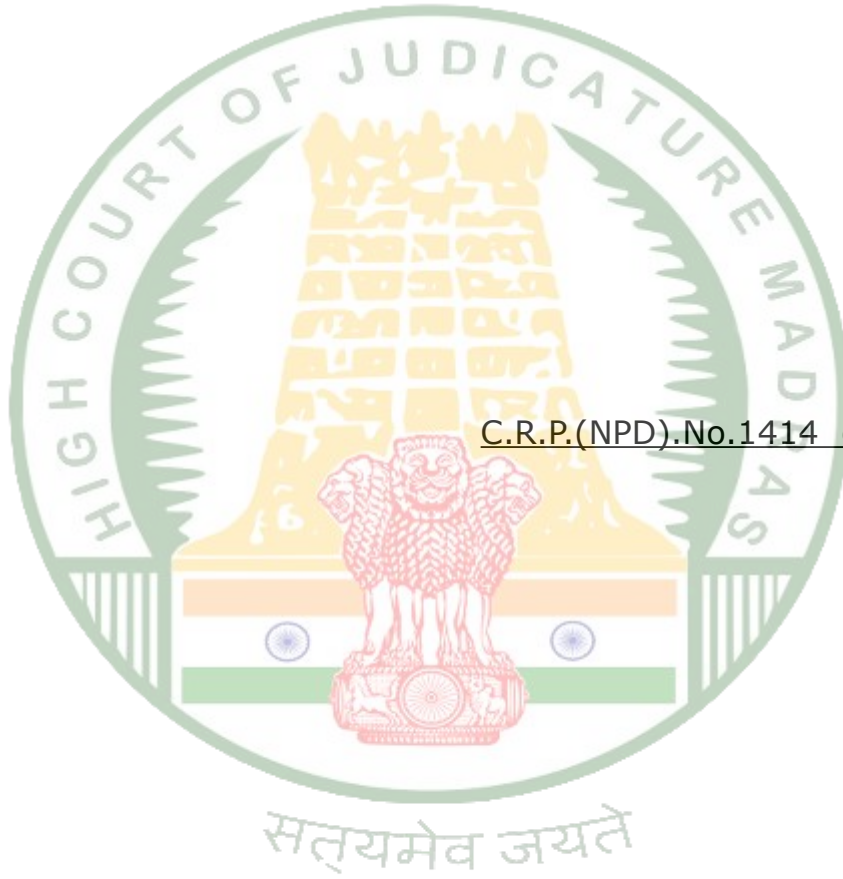
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C.SARAVANAN, J.

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To

The XIII Assistant City Civil Court,
Chennai.



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