

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2019

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

CRP (NPD)No.3631 of 2014

and

M.P. No.1 of 2014

A. Jothiramalingam ... Petitioner
versus
1. The Branch Manager,
Canara Bank,
Nagapattinam Branch,
Nagapattinam.
2. J.Sathish Kumar ... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to allow the Civil Revision Petition by dismissing E.P. No.19 of 2012 in O.S. No.35 of 2004, pending on the file of the District Munsif Court, Nagapattinam.

For petitioner : Mr. B. Harikrishnan
For respondents : No appearance

ORDER

The instant Civil Revision Petition has been filed under Article 227 of the Constitution of India, challenging the Execution Petition No.19 of 2012 initiated by the first respondent before the District Munsif Court, Nagapattinam to execute the decree, dated 14.02.2007 in O.S. No.35 of 2004.

Brief facts leading to the filing of the instant Civil Revision Petition :

2. The petitioner is the second Judgment Debtor in the Execution Petition E.P. No.19 of 2012 in O.S. No.35 of 2004. The first respondent had obtained a money decree against the judgment debtors for the non re-payment of the educational loan availed by them from the first respondent bank. The instant Civil Revision Petition has been filed on the ground that waiver of interest was sanctioned by the Union Government in respect of small loan accounts on 22.12.2001. According to the petitioner, despite the waiver of interest, the first respondent has filed the suit for the recovery of interest amount from the petitioner, who has availed an educational loan.

3. According to the petitioner, he has repaid the entire loan (Principal) amount to the first respondent bank and therefore, as per the One Time Settlement sanctioned by the Union Government, he is not liable to pay the interest amount. In particular, the petitioner has referred to the guidelines issued by the Union Government on 22.12.2001 to all the banks, which reads as follows :

2.i)Coverage

a) *The guidelines will cover all loan accounts with outstanding balance of upto Rs.25,000/- principal amount (excluding any interest element) in all sectors irrespective of the nature of business or purpose which have become NPAs as on March 31, 1998.*

b) *The guidelines will also cover suit filed and decreed debts. After the settlement is reached, the banks may take appropriate steps for closure of cases in respective courts.*

c) *The scheme will not, however, cover cases of fraud, malfeasance and wilful defaults.*

d) *The guidelines will be operative upto June 30, 2002.*

4. Heard Mr.B. Harikrishnan, learned counsel for the petitioner. Though notice had been served on the first respondent and the first respondent has entered appearance through a counsel, there is no representation for the first respondent. As regards the 2nd respondent, though notice has been served and his name has also been printed in the cause list today, there is no representation on his side.

Discussion :

5. Admittedly, the suit was decreed on 14.02.2007 and the said decree has also not been challenged by the petitioner before any appellate Court. No application has also been filed by the petitioner to set aside the ex-parte decree. Therefore, the decree dated 14.02.2007 has attained finality. This being the case, the petitioner cannot now rely upon in the execution stage the guidelines issued by the Union of India for One Time Settlement in respect of small loan accounts with the sanctioned limit upto Rs.25,000/-. If at all the petitioner had any defence, he should have raised all these defences in the suit and not in the execution stage. This Court does not find any merit in the Civil Revision Petition, as the decree passed against the petitioner has attained finality.

6. In the result, the Civil Revision Petition stands dismissed.

Consequently, connected miscellaneous petition is closed. No costs.

02.08.2019

Index: Yes/ No
Internet: Yes/No
Speaking Order/Non-speaking Order
vsi2

To
The District Munsif,
Nagapattinam.

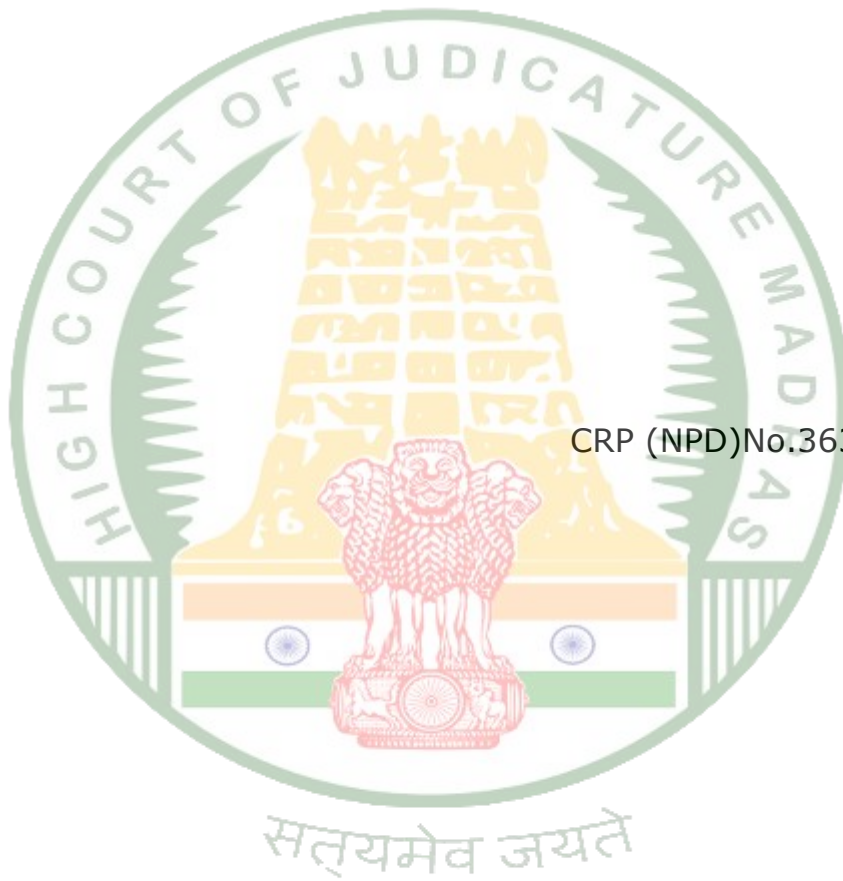


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CRP (NPD)No.3631 of 2014

ABDUL QUDDHOSE, J.

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CRP (NPD)No.3631 of 2014

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