

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2019

CORAM

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

C.R.P.(NPD).No.76 of 2014

and

M.P.No.1 2014

- 1.The Secretary,
C-2482, Chinnakallupalli,
Primary Agricultural Co-operative Bank,
Chinnakallupalli Village,
Kalandira post, Vaniyambadi Taluk.
 - 2.The Special Officer,
C-2482, Chinnakallupalli,
Primary Agricultural Co-operative Bank,
Chinnakallupalli Village,
Kalandira post, Vaniyambadi Taluk.
 - 3.The Co-operative Sub Registrar,
(CSR) Prosecution,
O/o. Deputy Registrar of Co-operative Societies,
No.95/9, Chariman Duraisamy Street,
Salem Main Road, Tirupattur.
 - 4.The Deputy Registrar,
Co-operative Societies,
O/o. Deputy Registrar of Co-operative Societies,
No.95/9, Chairman Duraisamy Street,
Salem Main Road, Tirupattur.
- ... Petitioners

Vs.

1.G.Malathi

2.G.Srinivasan

... Respondents

PRAYER: Civil Revision petition is filed under Section 115 of CPC, to set aside the fair and decreetal order dated 06.09.2013 made in I.A.No.159 of 2010 in O.S.No.203 of 2007 on the file of Principal District Munsif cum Judicial Magistrate, Vaniyambadi.

For Petitioners : Mr.N.Manikandan

For Respondents : Mr.S.Sairaman

ORDER

The present Civil Revision Petition has been filed against the fair and decreetal order dated 06.09.2013 in I.A.No.159 of 2010 in O.S.No.203 of 2007 on the file of the Principal District Munsif cum Judicial Magistrate, Vaniyambadi, Vellore District.

2.By the impugned order, the lower Court has allowed the application to send the petitioners to civil prison for period not exceeding three months for commission of contempt of Court for violating order dated 10.03.2008 passed in I.A.No.428 of 2007 in O.S.No.203 of 2007 in terms of Order 39 Rule 3 (a) of CPC.

3.The first respondent herein is wife of the G.Srinivasan, who was Secretary of C-2482, Chinnakallupalli Primary Agricultural Co-operative Bank Ltd.

4.They were certain proceedings proposed initiated under Provisions of the Tamil Nadu Co-operatives Act, 1983 for recovering the amounts allegedly misappropriated by the respondent's husband.

5.Under these circumstances, the attempt was made to attach the property in the name of the respondent under Section 167 of TamilNadu Co-operative Societies Act, 1983 read with Rule 140 of TamilNadu Co-operative Societies Rules 1988.

6.In the suit filed by the respondent, the petitioners remained urgent and therefore the exparte decree passed on 10.03.2008.

7.Thereafter, the suit was dismissed for default and thereafter restored on 02.12.2009. During the interregnum the petitioner herein sought to attach the property and attempted to auction the same.

8.The learned counsel for the respondent submits that two attempts were made to auction the property of the respondent. The auction could not be completed for want of bid. The learned counsel for the petitioners submits that the property of the respondent has not sold and will be sold or dealt with subject out come in O.S.No.203 of 2007 on the file of the Principal District Munsif cum Judicial Magistrate, Vaniyambadi, Vellore District to effect that affidavit has been filed.

9. Though the attempt was to violate the order by taking advantage suit of the dismissal of the suit, I am inclined to allow the Civil Revision Petition, considering the fact that the property has not sold and in view of the undertaking given by V.G.Senthilkumar, the present secretary of the first petitioner. He has also tendered his unconditional apology and has undertaken not to deal with the property of the first respondent. The paragraphs 6 and 7 of the affidavit, filed by petitioners is reproduced below:-

"6. This apart I state that the above said suit is part heard stage and two witnesses were examined in the above suit on my side and the respondents participated in the trial proceedings and hurriedly passed impugned and unlawful order of set off dated 04.01.2010. It is also learnt that sale certificate was registered in the name of the 1st respondent regarding the suit property on 05.03.2010 with intention to defraud my right and right to property and the same is flagrant infringement of my right to suit property.

7. Hence it is just and necessary for this Hon'ble Court to send the respondents to civil prison for period not exceeding 3 months for their commission of contempt of Court order dated 10.03.2008 passed in I.A.No.428 of 2007 is as 203/2007 by this Hon'ble Court and to pass such other order or orders as this Hon'ble court may deem fit and proper in the above

circumstance of the case, as otherwise I will be put to loss and hardship which cannot be compensated in terms of money.”

10. Recording the same the present Civil Revision Petition stands allowed. Since the suit is of the year 2007, the lower Court is directed to dispose the suit within a period of nine months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

07.03.2019

Index : Yes/No

Internet : Yes/No

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To

The Principal District Munsif cum

Judicial Magistrate,

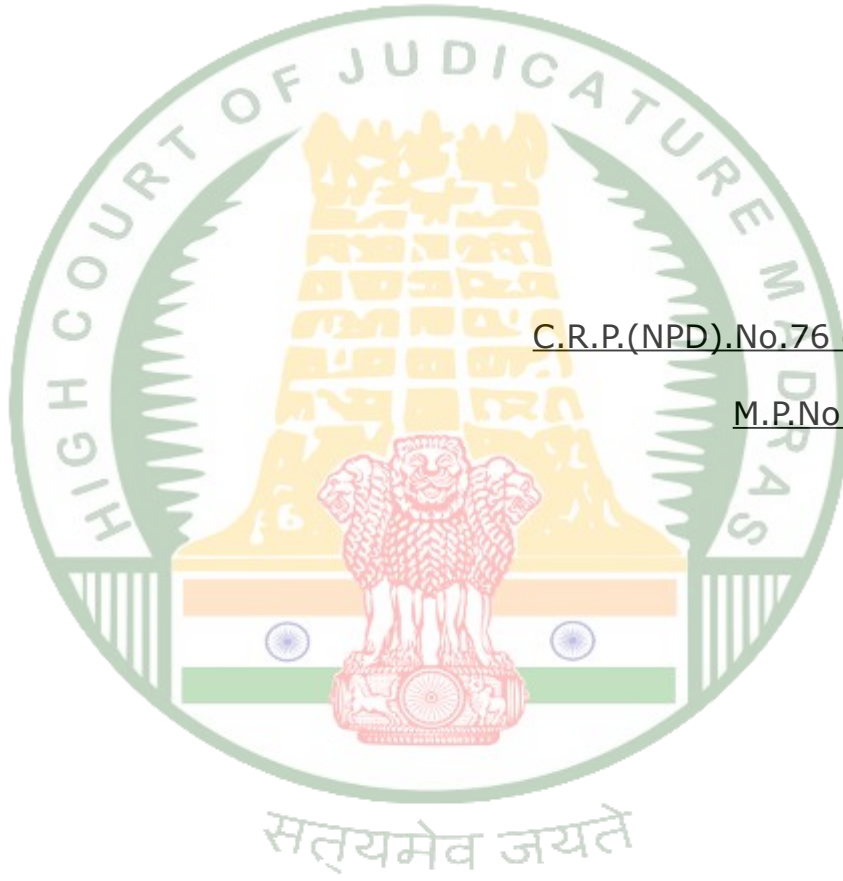
Vaniyambadi, Vellore District.

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C.SARAVANAN, J.

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