

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

C.R.P. (NPD) No. 3655 of 2017

and

C.M.P. Nos. 17008 of 2017 & 7611 of 2018

Elumalai

...Petitioner

Vs

Shanmugam

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set-aside the fair and decretal order in E.P.No.114 of 2016 in O.S.No.144 of 2010 dated 28.08.2017 passed by the learned District Munsif, Panruti.

For Petitioner : Mr.B.Sundarapandiyan

For Respondents : Mr.S.Kadarkarai

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ORDER

The prayer sought for in the present revision petition is to set-aside the fair and decretal order in E.P.No.114 of 2016 in O.S.No.144 of 2010 dated 28.08.2017 passed by the learned District Munsif, Panruti.

2. In a suit for recovery of money filed in the year 2010 based on a promissory note executed in 2008, the respondent herein is unable to recover the money till date. It is seen that on 02.11.2011, an ex-parte decree came to be passed, which was set aside on 22.04.2013. Subsequently, the petitioner herein was set ex-parte on 20.01.2014, which also came to be set aside on 09.06.2015. For the third time, the petitioner was set ex-parte on 18.08.2015 and an ex-parte decree was passed, which also came to be set aside on 09.02.2016. Ultimately, the petitioner herein was set ex-parte for the fourth time on 31.08.2016 and the trial Court, on 06.02.2017, had dismissed the application seeking to set aside the ex-parte decree. As against the same, the petitioner claims to have preferred an appeal with a delay of 32 days in filing the Civil Miscellaneous Appeal.

3. On an overall conduct of the petitioner, I am of the view that the petitioner need not be extended any further indulgence. The respondent herein claims to have lent a sum of Rs.70,000/- in the year 2008 and has been waiting for more than 10 years to recover his money inspite of the decree becoming final.

4. The present order under challenge is an order of attachment passed in execution proceedings in EP.No.114 of 2016. Though the petitioner has raised several grounds challenging the said order, I am not inclined to accept any of the same for two reasons. Firstly, in view of the conduct of the petitioner in having prolonging the suit proceedings and secondly, though the petitioner questions his liability to pay the decree amount, the Execution Court cannot appreciate such grounds and that it is bound to execute the same, which is within the scope of the decree. As such, I do not find any merits in the Civil Revision Petition.

5. Accordingly, the present Civil Revision Petitions stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

सत्यमेव जयते

07.01.2019

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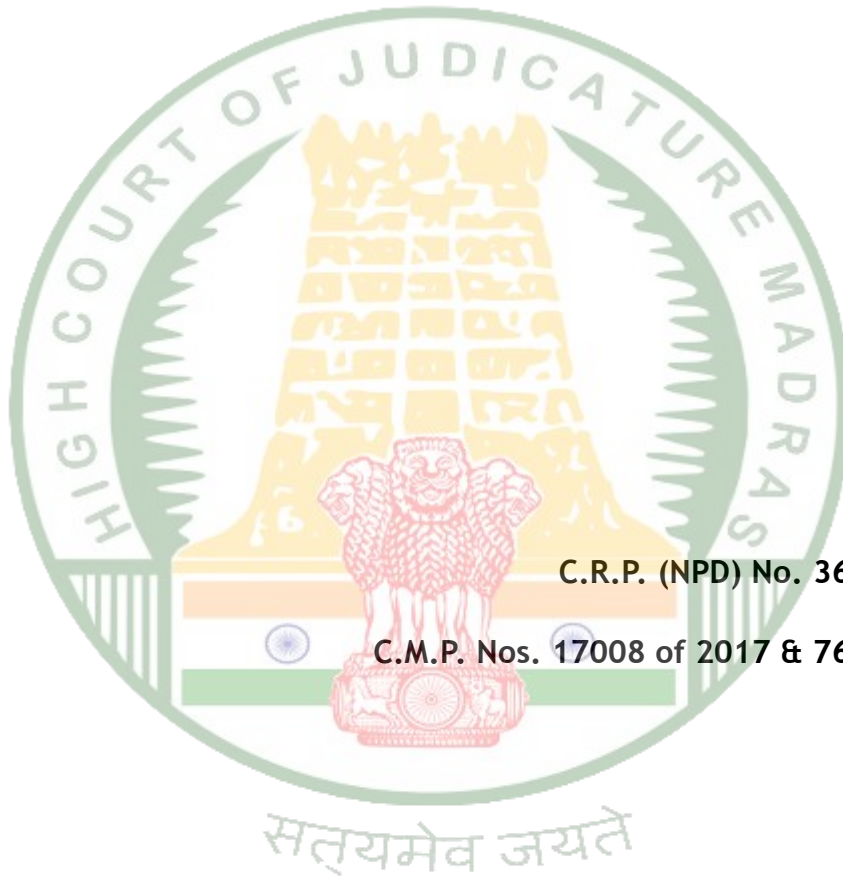
Index:Yes/No

Speaking Order: Yes/No

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M.S.RAMESH.,J

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