

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.12.2020

PRONOUNCED ON : 15.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP(NPD)No.1293 of 2016

CMP.No.7243 of 2016

(Through Video Conferencing)

C.Baskaran

Petitioner

Vs

Dhanalaxmi Bank Limited
Mount Road, Chennai-2

Respondent

Prayer:- This Civil Revision Petition has been filed, under Section 227 of the Constitution of India, to set aside the fair and decreetal order, dated 06.07.2015, made in IA.No.8591 of 2015 in OS.No.6531 of 2014, by the XII Assistant City Civil Court, Chennai.

For Petitioner : Mr.A.M.Ilango

For Respondent : Mr.K.Rajasekaran

ORDER

1. This Civil Revision Petition has been filed, to set aside the fair and decreetal order, dated 06.07.2015, made in IA.No.8591 of 2015 in OS.No.6531 of 2014, by the XII Assistant City Civil Court, Chennai.
2. The facts of the case, in a nutshell, leading to filing of this Civil Revision Petition are as follows:-

(a) The 3rd Defendant is the Petitioner and the Plaintiff Bank is the

Respondent. The suit was filed for recovery of money with interest from the Defendants. The 3rd Defendant has filed the present IA, seeking unconditional leave to defend the case and by the impugned order, the said IA was dismissed. Hence, this Civil Revision Petition has been filed by the 3rd Defendant.

3. This court heard the learned counsel on either side.
4. The learned counsel for the Petitioner has submitted that the Petitioner is not the Director of the Company since the Petitioner has resigned in 2013 itself and that the Petitioner is not personally liable for the loan secured and that he has no knowledge of the affairs of the Company and that it is the 2nd Defendant who is liable for the loan and without considering those aspects, the court below erred in dismissing the IA and hence, this Civil Revision Petition is to be allowed, setting aside the impugned order.
5. The learned counsel for the Respondent Bank has submitted that at the time of availing loan, the 3rd Defendant was a partner in the Company and that he is trying to evade liability under the pretext that the Company was taken by a Private Limited Company and that the 3rd Defendant, as partner of the Company, in his individual capacity is jointly and severally liable and considering those aspects, the court below has rightly rejected the claim of the 3rd Defendant and therefore, this Civil Revision Petition is to be dismissed.
6. This Court has given its anxious consideration to the submissions of the learned counsel on either side and also carefully perused the materials

placed on record.

7. The question that arises for consideration is as to whether the Petitioner is liable for the loan secured or not. The contention of the Petitioner is that he is not liable for the loan. On the other hand, it is the claim of the Respondent that as partner of the Company, the Petitioner, in his individual capacity is jointly and severally liable.
8. It is seen from the evidence that admittedly the Petitioner was a partner of the 1st Defendant Company till 4.3.2013, particularly, at the time of borrowing loan. While so, he is legally bound to discharge the debt. Further, there is no evidence to show that he has given any public notice about his retirement from the Company and that he has also informed about the same to the Bank. Therefore, the contention of the Petitioner that he is not liable for the loan secured cannot be accepted. Considering the evidence in a proper and perspective manner, the court below has rightly rejected the claim of the Petitioner. Further, this Court finds no infirmity in the impugned order passed by the court below. Accordingly, this Civil Revision Petition is to be dismissed.
9. In fine, this Civil Revision Petition is dismissed. No costs. Consequently, the connected MP is closed.

15.12.2020

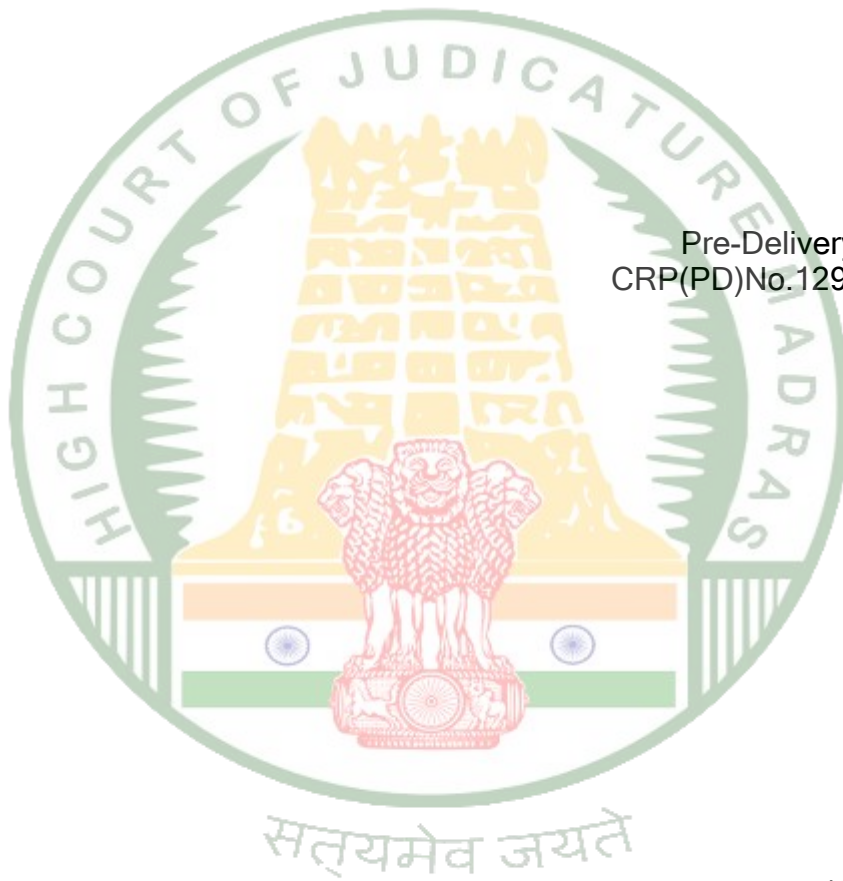
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CRP(NPD)No.1293 of 2016

A.A.NAKKIRAN, J.

Srcm

To
The XII Assistant City Civil Court, Chennai.



Pre-Delivery Order in
CRP(PD)No.1293 of 2016

15.12.2020

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