

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2020

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.R.P.(NPD) No.1207 of 2014
and
M.P.No.1 of 2014

M.Santhanam

...Petitioner

..Vs..

Muthusamy

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and final order passed in I.A.No.64 of 2011 in O.S.No.287 of 2008 on the file of the Principal Subordinate Judge, Erode dated 20.08.2011.

For Petitioner : M/s.V.Balamurugane

For Respondent : Mr.V.Ragunathan

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ORDER

The respondent herein filed O.S.No.287 of 2008 for recovery of money due on pronote to the tune of Rs.1,00,000/- along with interest.

2. After filing of the proof affidavit and marking of documents, the defendant has not chosen to cross examining P.W.1. Despite, several adjournments, exparte decree was passed on 30.01.2010.

3. The defendant filed I.A.No.64 of 2011 on 01.03.2010 to set aside the ex-parte decree under Order 9 Rule 13 of C.P.C., and that petition was dismissed on the ground that he entered appearance in the Execution Proceedings. Challenging the said order, the defendant has preferred this Civil Revision Petition.

4. On a perusal of the proceedings of the Lower Court, it is seen that in the suit O.S.No.287/2008, exparte decree was passed on 30.01.2010 and within a period of limitation as prescribed for setting aside the ex-parte decree petition under Order 9 Rule 13 of C.P.C I.A was filed on 01.03.2010 as numbered as I.A.No.64 of 2011.

5. Hence, in the interest of justice, this Civil Revision Petition has to be allowed. Accordingly, since it is a money suit of the year 2008, I am of the considered view that this Civil Revision Petition is allowed on condition that the petitioner shall deposit 50% of the suit amount to the credit of the Execution Petition before the Execution Court and such deposit has to be made within a period of four weeks from the date of receipt of a copy of this order and the trial Court is directed to dispose of the case within a period of twelve weeks from the date of payment of such 50% of the amount as directed above. No costs. Consequently, connected M.P is closed.

08.01.2020

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Index:Yes/No

Speaking Order:Yes/No

To

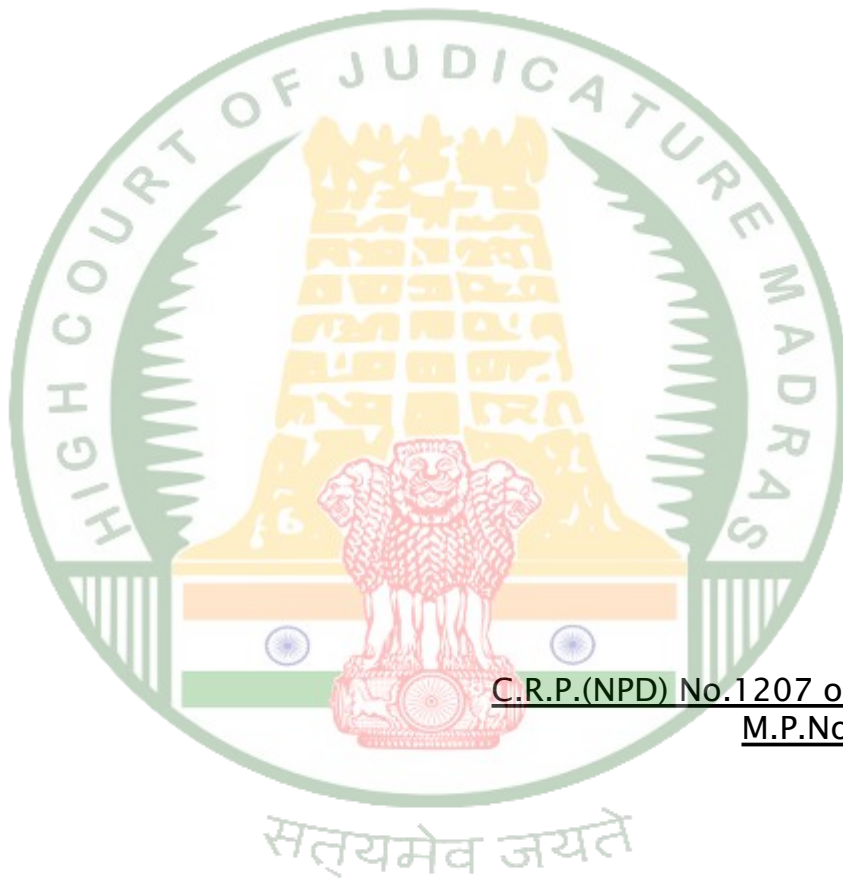
The Principal Subordinate Judge, Erode

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RMT.TEEKAA RAMAN,J.,

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