

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (NPD) No.3183 of 2018 and
CMP No.18193 of 2018

M.K.Ramamoorthy Petitioner

Vs

Shriram Chits Tamil Nadu (P) Ltd
Rep. by its Foreman
Vellore Office,
Arni Road, Vellore – 1. Respondent

Prayer: The Civil Revision petition filed under Section 115 of the Code of Civil Procedure, praying to set aside the fair order and decretal order, dated 05.09.2018 made in E.A.No.31 of 2013 in E.P. No.120 of 2011 in ARC. No.30 of 2006 on the file of the learned Principal Subordinate Judge Vellore, Vellore District.

For Petitioner : Mr.T.K.Kulasekaran

For Respondent : No appearance

ORDER

This revision is against an order made in an application filed under Section 47 of the Code of Civil Procedure.

2. The respondent launched execution of an award made in its favour as early as on 28.07.2006. Claiming that several amounts paid through cheques as well as through collecting the agent of the respondent/decreed holder have not been accounted properly the petitioner/Judgment Debtor filed an application under Section 47 of the Code of Civil Procedure seeking adjudication.

3. This was resisted by the decreed holder contending that no amount was paid by the petitioner. The Executing Court which heard the application concluded that the petitioner/Judgment Debtor has miserably failed to prove the claim that he had made several payments either through cheques or through collecting agents of the respondent/Decreed holder. On the said conclusion, the Executing Court dismissed the application filed under Section 47 of the Code of Civil Procedure.

4. I have heard Mr.T.K.Kulasekaran, learned counsel appearing for the petitioner. The respondent though served, is not appearing either in person or through counsel duly instructed.

5. Despite his best efforts, Mr.T.K.Kulasekaran is unable to make out any material irregularity in the order of the trial Court, so as to enable me to interfere in this revision. The claim of the petitioner that he has paid several amounts through cheques as well as through collecting agents of the respondent. In the absence of any evidence to prove the alleged payments the said plea cannot be accepted. Upon finding that there is no evidence for the payments alleged to have been made by the petitioner, the trial Court had rightly dismissed the application under Section 47 of the Code of Civil Procedure.

6. Mr.T.K.Kulasekaran, learned counsel, appearing for the petitioner would further contend that the Judgment Debtor is ready to pay the balance amount of Rs.1,13,270/-. But the Decree holder is demanding interest for the subsequent period also. Since the same is not the subject

matter of challenge in this revision, I am not going into the merits of the same. The Judgment Debtor is free to make payment of the amount due according to him.

7. In the result, the Civil Revision petition is dismissed with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

07.12.2020

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Index: Yes/No
Speaking order / Non speaking order

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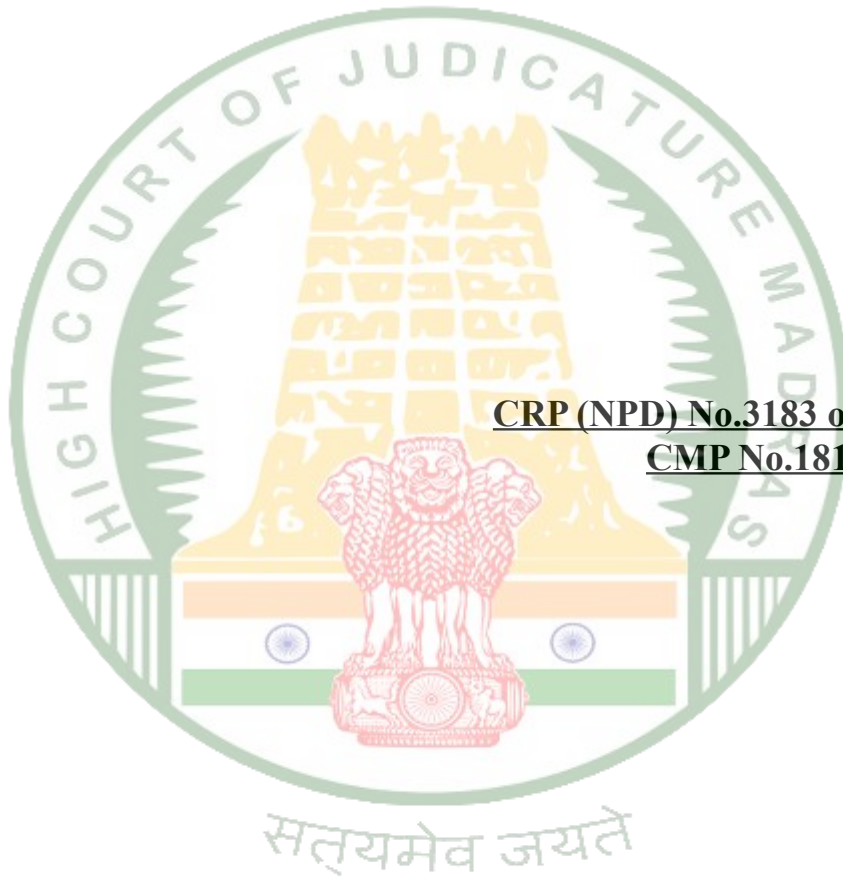
The Principal Subordinate Judge,
Vellore, Vellore District.

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CMP No.18193 of 2018

R.SUBRAMANIAN, J.

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