

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2021

CORAM:

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P.(NPD) Nos.109 & 112 of 2019

and C.M.P.Nos.921 & 936 of 2019

(Through Video Conference)

A.S.Soundararajan

.. Petitioner in C.R.P.(NPD)
No.109 of 2019

K.Jayabalan

.. Petitioner in C.R.P.(NPD)
No.112 of 2019

Versus

Shriram Chits Tamil Nadu Private Limited,
F41 First Floor First Pirathana Salai,
Anna Nagar, Chennai 102

.. Respondent in both C.R.P's

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the fair order and decretal order passed in E.A.Nos.2223 & 2226 of 2016 in E.P.Nos.1004 & 1002 of 2010 in A.R.C.No.441 of 2007 respectively, dated 11.12.2018 on the file of X Assistant City Court, Chennai.

In both the C.R.P's

For Petitioner

: Mr.A.Muthukumar, \\\nSenior Counsel

For Respondent

: No Appearance

COMMON ORDER

Since the issue involved in both the Civil Revision Petitions are one and the same, they are disposed of by this common order.

2. These Civil Revision Petitions have been filed against the orders passed in E.A.Nos.2223 & 2226 of 2016 in E.P.Nos.1004 & 1002 of 2010 in A.R.C.No.441 of 2007 respectively, dated 11.12.2018 on the file of X Assistant City Court, Chennai. Learned counsel for the petitioners submitted that the respondent initiated the proceedings under Arbitration and Conciliation Act in A.R.C.No.441/2007 against the petitioners and other guarantors and an Award for a sum of Rs. 60,948/- was passed.

3. The respondent filed execution petitions in E.P.Nos.1004 & 1002 of 2010. E.P.No.1002 of 2010 was filed against the respondent / petitioner therein for attachment of his salary and Execution Petition in E.P.No.1004 of 2010 was filed against the respondent / petitioner for the attachment of movables. The petitioners were set ex parte in the execution petitions and an attachment was ordered. Against the said order of attachment, the petitioners filed E.A.Nos.2223 & 2226 of 2016 for raising an attachment. These

applications were filed for the reason that the petitioners had paid a sum of Rs.35,000/- to the agent of the respondent. In support of their payment, they also produced the Exhibits Ex.P.1 to Ex.P.4 documents.

4. It is the case of the petitioners that they had paid the entire amount. The learned X Assistant Judge, City Civil Court, Chennai has not considered the receipts produced by the petitioners in support of the payment and dismissed the petitions. Against the said orders of dismissal, these Civil Revision Petitions have been filed.

5. There is no representation for the respondent. In spite of service of notice to the respondent and also upon informing the learned counsel appearing for the respondent before the trial Court, there is no representation for the respondent. The name of the respondent is also printed in the cause list.

6. The learned counsel for the petitioners submitted that the petitioners have paid part of the amount due to the respondent and they also produced receipts in support of the documents. They may be given an opportunity to prove their payment.

7. Reading of the orders passed by the learned X Assistant Judge, City Civil Court, Chennai shows that the receipts were rejected for the reason that these receipts came to be given by the agent of the decree holder and they were not produced before the Arbitrator, they do not contain the seal of the decree holder. Learned counsel for the petitioners submitted that the other receipts issued by the respondent also do not have the seal of the respondent. It is seen from the orders that the petitioners were not examined before the learned X Assistant Judge, City Civil Court, Chennai to prove the receipts. Without examining the petitioners, the receipts had been straight away marked and findings given.

8. This Court is of the considered view that the petitioners should be given an opportunity to examine themselves and to prove the receipts /Ex.P.1 to Ex.P.4, so that, their genuineness in the claim can be tested. In this view of the matter, the orders of the learned X Assistant Judge, City Civil Court, Chennai are set aside and these **Civil Revision Petitions are Allowed** with a direction to the learned X Assistant Judge, City Civil Court, Chennai to

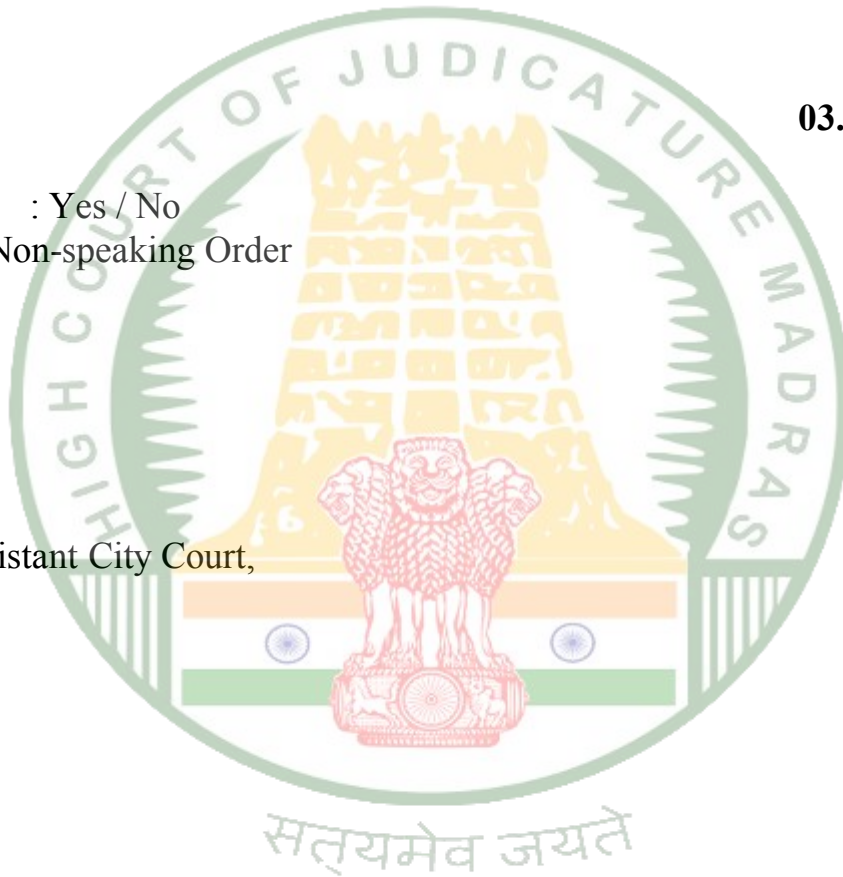
give an opportunity to the petitioners to examine themselves as witnesses to prove the receipts/ Ex.P.1 to P.4, insofar as the claim of payment made. Before examining the petitioners, notice shall be sent to respondents. No costs. Consequently, connected miscellaneous petitions are closed.

03.09.2021

Index : Yes / No
Speaking/Non-speaking Order
sts/JAI

To:

The X Assistant City Court,
Chennai.



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C.R.P.(NPD)Nos.109 & 112 of 2019

G.CHANDRASEKHARAN, J.,

sts/JAI



Common order made in
C.R.P.(NPD) Nos.109 & 112 of 2019

Dated:
03.09.2021

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