

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.NPD.No. 4595 of 2015

and

CMP.No.15446 of 2017

1. Unnamalai Ammal
2. Maayavan
3. Perumal Devan

... Petitioners

Vs.

1. The Secretary,
Salem Urban Co-op Bank Ltd.,
Salem – 01.
2. The Co-operative Extension Officer,
and Arbitrator, Salem – 01.
3. The Co-operative Sub Registrar,
Sales Officer Urban Co-op Bank Ltd.,
Salem – 01.

... Respondents

PRAYER: The Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, praying to revise and set aside the order passed in C.M.A (CS) No.13/2005 dated 24.06.2014 by the learned District Judge, Salem and allow the memo by allowing this CRP.

For Petitioners : Mr.A.S.Baalaji

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader

ORDER

This Civil Revision Petition is directed as against the order and decretal order passed in C.M.A (CS) No.13/2005 dated 24.06.2014 on the file of the learned District Judge, Salem, thereby, dismissing the petition to set aside the award passed by the Co-operative Extension Officer and Arbitrator of the Co-operative Societies.

2. The petitioners borrowed loan to the tune of Rs.1 lakh in the year 1999 to purchase cattle and jointly mortgaged their property under the Registered Mortgage Deed dated 17.02.1999. Thereafter, the petitioners did not repay the loan amount as per the schedule. Hence, the loan account was foreclosed, after issuing registered notices to them. Thereafter, the 1st respondent filed a claim petition before the Arbitrator. In the arbitration proceedings also, they have received summons and thereafter, they did not appear before the Arbitrator.

3. After perusal of the records, it is seen that the arbitrator passed the award to the tune of Rs.1,47,681/- by award dated 20.10.2004. Thereafter, the 1st respondent filed an Execution Petition, in which the property which

was mortgaged was attached by an order of attachment. It was also duly served on the petitioners and the auction was fixed on 30.10.2004. At this juncture, the petitioners filed a petition to set aside the ex-parte award with a delay of 564 days in filing the application to set aside the ex-parte award passed by the Arbitrator. The delay was condoned and the Appellate Court dismissed the appeal on the ground that the petitioners have admittedly failed to pay the loan amount which was borrowed by them. Though they stated the reason that the entire agriculture affected due to drought, the same cannot be considered for purchase of Cows. Though the agriculture was affected due to drought, they can very well repay the loan by milk production.

4. The learned counsel for the respondents submitted that so far, the petitioners are in due to the tune of Rs.6,27,000/-. Therefore, this Court finds no infirmity or illegality in the order passed by the Court below.

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G.K.ILANTHIRAIYAN,J.

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5. Accordingly, this Civil Revision Petition is dismissed.

Consequently, the connected Miscellaneous Petition is closed. No costs.

25.02.2021

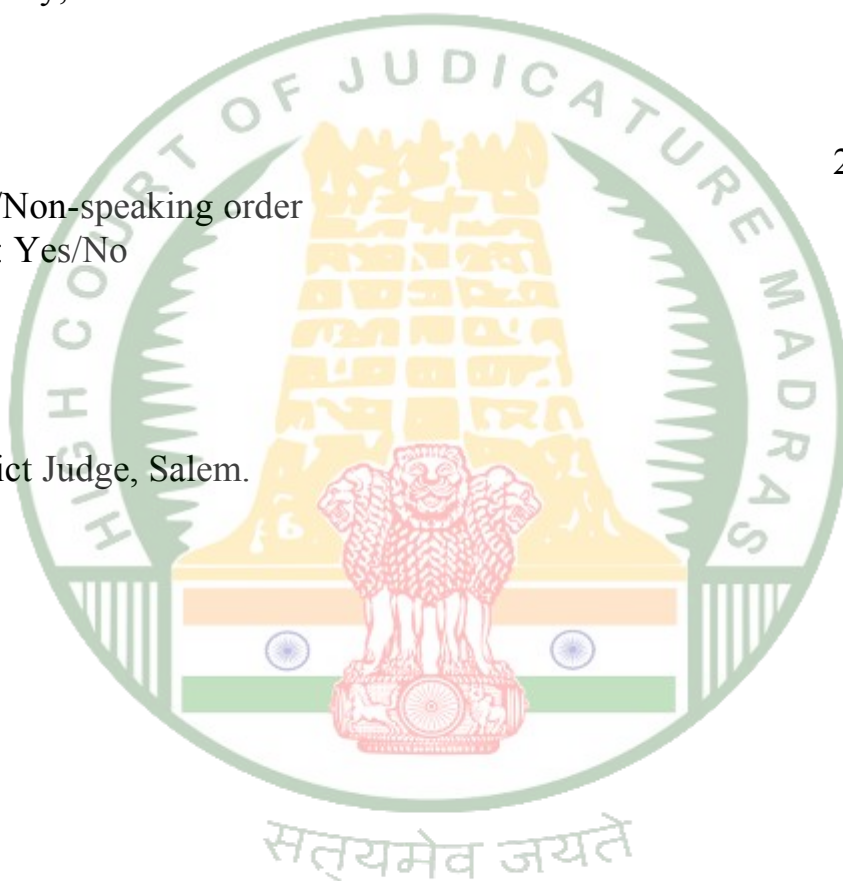
Speaking/Non-speaking order

Index : Yes/No

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To

The District Judge, Salem.



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