

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.1986 of 2016
and C.M.P.No.10398 of 2016

R.Rajendiran

.. Petitioner

Vs.

1.Prabhu Chit Funds (P) Ltd.,
No.834, Cuddalore Road,
Panruti,
Panruti Taluk,
Cuddalore District.

2.J.Devanathan

3.A.S.Soundararajan @ Karthick

.. Respondents

(R2 and R3 are not necessary parties to the petition)

Prayer: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order dated 15.10.2015, made in E.P.No.27 of 1998 in A.R.No.125 of 1998, on the file of the Sub Court, Panruti.

For Petitioner : Mr.R.Gururaj

For Respondents : Mr.P.Dinesh Kumar (For R1)
for M/s.D.Ravichander

Notice dispensed with
(For R2 & R3)

ORDER

(The matter is heard through 'video conferencing/hybrid mode')

This Civil Revision Petition is filed to set aside the fair and decreetal order dated 15.10.2015, made in E.P.No.27 of 1998 in A.R.No.125 of 1998, on the file of the Sub Court, Panruti.

2.The petitioner is 1st respondent in E.P.No.27 of 1998 in A.R.No.125 of 1998, on the file of the Sub Court, Panruti. He was a member of one of the Chit Transaction run by the 1st respondent. In respect of said chit transaction, the petitioner defaulted in payment of instalments. The 1st respondent initiated proceedings in Arbitration Case, A.R.No.125 of 1998. The Deputy Registrar of Chits, Cuddalore, passed an award dated 30.06.1998, granting decree, directing the petitioner to

pay the amount of Rs.53,000/- and the balance defaulted amounts together with interest and costs to the 1st respondent. The petitioner did not initiate any further proceedings, challenging the said award and the said award has become final. The 1st respondent filed E.P.No.27 of 1998 on the file of the Sub Court, Panruti, seeking for a direction to the petitioner to pay a sum of Rs.74,453.75/-, failing which to arrest and detain the petitioner in civil prison. The petitioner filed counter statement on 30.06.1999 and stated that the amount and interest claimed are excessive. The cost claimed is not correct and the petitioner has no means to pay the said amount. Before the learned Judge, the 1st respondent examined one Balan as P.W.1 and marked the Income Tax Returns for the year 1999-2000, filed by the petitioner herein, as Ex.P1. The petitioner examined himself as R.W.1, examined one Pazhamalai, Income Tax Officer as R.W.2 and marked Turn Over Report of the Sales Tax department dated 02.02.2007, as Ex.X1. The learned Judge, considering the entire materials, including both the oral and documentary evidence, allowed E.P.No.27 of 1998, ordering arrest of the petitioner by

04.11.2015.

3. Against the order dated 15.10.2015, made in E.P.No.27 of 1998 in A.R.No.125 of 1998, the petitioner has come out with the present Civil Revision Petition.

4. The learned counsel appearing for the petitioner reiterated the grounds raised in the Civil Revision Petition and relying on the judgments reported in **1995 (1) LW 141** [*Annapoorni V. Janaki*], **98 LW 25 (SC)** [*M/s. Variety Emporium Vs. V.R.M. Mohd. Ibrahim Naina*], **AIR 1975 SC 1409** [*Pasupuleti Venkateswarlu Vs. The Motor and General Traders*], **AIR 1981 SC 1113** [*M.M. Quasim Vs. Manohar Lal Sharma and others*], **AIR 1990 SC 717** [*Bhavnagar Municipality Vs. Union of India and another*] and **1996 (1) LW 418** [*The Bishop in Office of CSI Vellore Diocese, Rt. Rev. RT. Baskaran and others Vs. Jeyakaran Joseph and others*], submitted that subsequent events have to be taken into consideration and prayed for allowing the Civil Revision Petition.

5.Heard the learned counsel appearing for the petitioner as well as the 1st respondent and perused the entire materials available on record.

6.The contention of the learned counsel appearing for the petitioner that the 1st respondent Chit Company has become defunct and the Managing Director of the 1st respondent is dead, is not supported by any documents. The petitioner has not filed any document before the Execution Court to prove the said contention. Further, the 1st respondent is a Chit Fund Company and it can be represented by any authorised representative. The contention of the learned counsel for the petitioner that Arbitrator has not followed the legal procedure, the amount and interest claimed are excessive and the cost awarded is not correct cannot be raised in the E.P., as he has not challenged the award dated 30.06.1998 made in Arbitration Case, A.R.No.125 of 1998. The learned Judge has considered the documents filed by the 1st respondent to show that the petitioner has sufficient means to pay the decretal amount and giving

valid reason, allowed E.P.No.27 of 1998, ordering arrest. The petitioner has not pointed out any error or irregularity in the impugned order. The judgments relied on by the learned counsel for the petitioner are not applicable to the facts of the present case.

For the above reason, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index :: Yes/No
gsa

To

The Subordinate Judge,

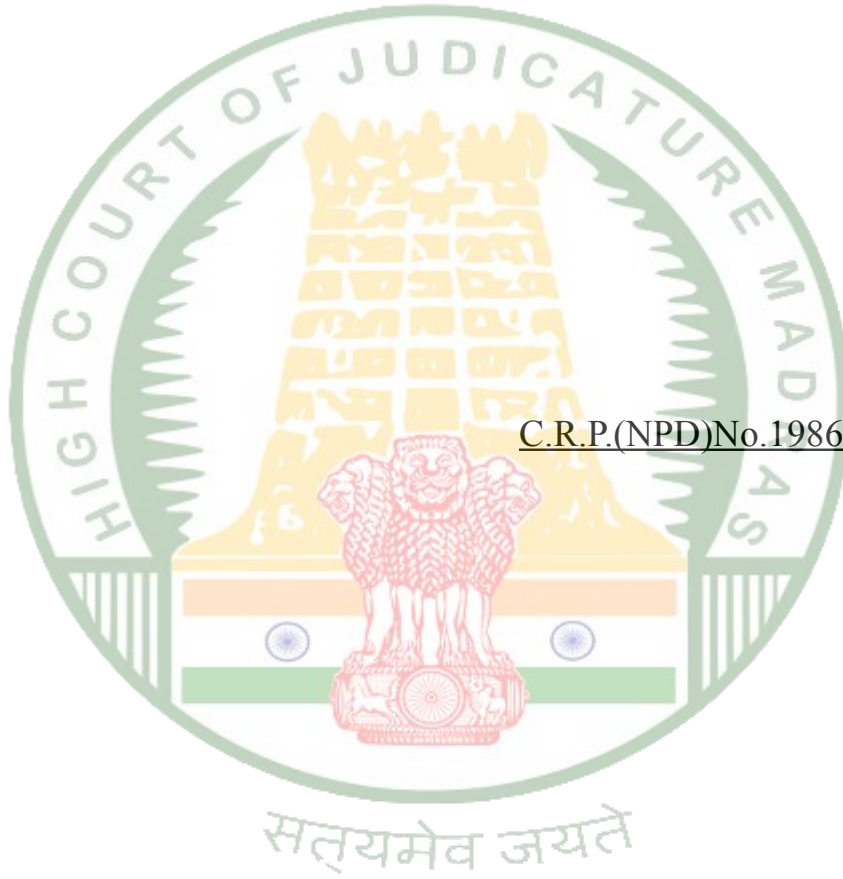
Panruti.

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V.M.VELUMANI, J.

gsa



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