

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2021

CORAM

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

CRP.NPD.No.2771 of 2018

and

CMP.No.16226 of 2018

1.A.Elangovan

2.E.Kannan

3.E.Deepakani

..Petitioners

Vs.

1.The General Manager,
Salem District Central Cooperative Bank
(Kolathur Branch),
Kolathur, Mettur Taluk,
Salem 636 001

2.The Deputy Registrar of Cooperative Societies,
Omalur Circle,
Omalur, Salem District

..Respondents

PRAYER:

सत्यमेव जयते

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and final orders dated 25.04.2014 passed in CMA(CS).No.20 of 2010 on the file of the Principal District Judge at Salem.

For Petitioners : Mr.R.Nalliyappan

For Respondents

For R1 : Mr.M.R.Raghavan
R2 : Mr.A.E.Ravichandran,
Government Advocate(CS)

ORDER

This Civil Revision Petition is filed against the fair and final orders dated 25.04.2014 passed in CMA(CS).No.20 of 2010 on the file of the Principal District Judge at Salem, thereby confirming the order passed by the second respondent thereby passed award with interest at the rate of 20% per annum till the date of payment.

2. The petitioners borrowed a sum of Rs.4,90,000/- in the year 1999. Thereafter, they committed default in payment of monthly instalments. So far, they paid a sum of Rs.3,31,292/-, in which they paid only a sum of Rs.92,650/- as principal. Therefore, the second respondent initiated action in OS.No.222 of 2009 on the file of the second respondent. Though the suit summon was duly affixed on the doorsteps of the petitioners, they did not come forward to defend the suit. Therefore, they were set exparte and by the decree dated 24.12.2009, the petitioners were directed to pay a sum of Rs.8,00,355/- with interest at the rate of 20% per annum from the date of the decree. Aggrieved by the same, the petitioners preferred civil miscellaneous appeal, wherein the decree passed by the second respondent was confirmed.

3. The learned counsel for the petitioners would submit that the petitioners are ready and willing to settle the amount and they requested only to reduce the rate of interest since the second respondent awarded i.e. the principal amount with interest at the rate of 20% per annum.

4. The learned counsel for the first respondent submitted that as per the bye-laws, the petitioners ought to have paid the penal interest as agreed by them. Against the bye-laws as framed by the Cooperative Societies as per the Cooperative Societies Act, the petitioners ought to have paid the penal interest at the rate of 20% per annum.

5. The learned counsel for the petitioners would submit that this Court has got power to reduce the rate of interest as laid down by the Hon'ble Supreme Court of India in the case of **N.M.Veerappa Vs. Canara Bank** reported in **1998 (1) CTC 219** and the same has been followed by this Court in the case of **Secretary, K.1161 Kalingarayanpalayam Primary Agricultural Cooperative Credit Society Limited Vs. Chinnusamy and another** reported in **2017 (4) CTC 636**.

6. The petitioners are same family members and they borrowed loan in the year 1999 to the tune of Rs.4,90,000/- and thereafter they defaulted in payment of the loan amount. So far, they repaid only a sum of Rs.3,31,292/- and it was adjusted towards principal to the tune of Rs.92,650/- and remaining amount adjusted towards interest. Therefore, the petitioners are liable to pay a sum of Rs.8,00,355/- with interest from the date of the decree. Admittedly, the petitioners are agriculturists and they borrowed loan for the purpose of constructing new house. As per the mortgage deed, they agreed to repay with interest at the rate of 17% within a period of fifteen years, and if they fail to repay the amount, they are liable to pay penal interest at the rate of 20%.

7. In view of the above, this Court finds no infirmity or illegality in the order passed by the court below. Accordingly, this civil revision petition is dismissed. However, the rate of interest to be calculated is reduced to 12% per annum. Consequently, connected miscellaneous petition is closed. No order as to costs.

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Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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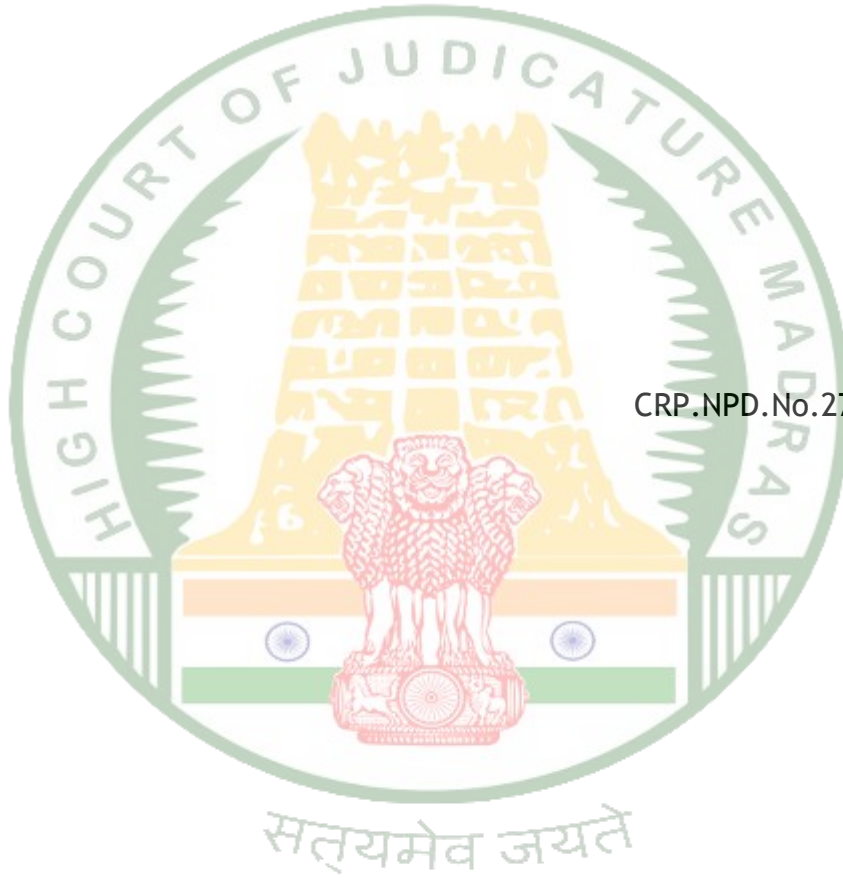
The Principal District Judge
at Salem.



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G.K.ILANTHIRAIYAN,J.

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