IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:06.01.2026	Pronounced on: 30.01.2026

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

CRP. No.5542 of 2025
and CMP. No.27810 of 2025

Thangaponnu

Petitioner(s)

Vs

1.The Secretary,
S.1565 Palace Nagar,
Co-operative Housing Society Ltd.,
Salem -01.

2.The Arbitrator,
Co-operative Sub-Register (Housing),
Salem -II, Salem District.

3.Thasappan

4.Ranganathan

5.Venugopal

6.Balamurugan

7.Bhuvaneshwari

8.Govindammal

Respondent(s)

PRAYER: This Civil Revision Petition is filed under Article 227 of the

Constitution of India, to set aside the decree and judgment passed by the Principal District Judge, Salem in CMA. (CS). No.23 of 2019 dated 25.10.2021 conforming the order of 1st respondent in Ne.Ma.No.289/2018-2019 dated 20.05.2019 by allowing the revision petition.

For Petitioner : Mr.U.Gowrishankar

For Respondents : Mr.J.Daniel,
Government Advocate
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ORDER

The first defendant in arbitration proceedings on the file of the Co-operative Sub- Registrar Housing, Salem District, is the revision petitioner.

2. The Secretary, S.1565, Palace Nagar, Co-operative Housing Society Ltd., Salem, initiated arbitration proceedings against the revision petitioner and 6 others for recovery of monies due and payable to the Society, by the defendants, arising out of a mortgage loan of Rs.1,20,000/-. The arbitrator, in and by an order dated 20.05.2019, passed an award directing the defendants to pay Rs.5,94,402/-, together with interest of 15% per annum. The defendants challenged the award before the learned Principal District Judge, Salem, in the CMA(CS) No. 23 of 2019 by preferring a statutory appeal under Section 152(3) of the Tamil Nadu Co-Operative Societies Act, 1983. The said appeal has been dismissed with costs, confirming the award passed by the learned Arbitrator.

Challenging the concurrent findings the 1st defendant has preferred the above revision petition.

3. I have heard Mr.U.Gowrishankar, learned counsel for the petitioner and Mr. J.Daniel, learned Government Advocate for the respondents. I have also gone through the records including the award and the judgment passed by the Principal District Judge, Salem, confirming the award.

4. Mr.U.Gowrishankar, learned counsel for the revision petitioner, would state that the learned Arbitrator as well as the Appellate Court, failed to consider that, as against the loan of Rs.1,20,000/- being sought for, only Rs.40,000/- was disbursed to the revision petitioner and the remaining Rs.80,000/- was admittedly paid to a 3rd person through cheque. He would further state that, as against a sum of Rs.40,000/- received, the petitioner has already paid Rs.99,060/- and the Society is attempting to make unlawful enrichment at the expense of the revision petitioner.

5. The learned counsel for the petitioner also relies on the decision of the Hon'ble Supreme Court in *N.M.Veerappa v. Canara Bank,* reported in *AIR 1998 SC 1101* and the order of the Hon'ble Division Bench in the matter of the *Secretary, K. 1161, Kalingarayan Palayam Primary Agricultural Co-Operative*

Credit Society Ltd. v. Chinnuswamy and Anr in *CRP.No.2433 of 2013 dated 19.04.2017.*

6. Per contra, Mr.J.Daniel, learned Government Advocate appearing for the respondents would contend that the revision petitioner is a member of the Society and she had borrowed Rs.1,20,000/- in Mortgage Loan No.21/2001-2002 on 13.06.2001 and that her husband, 3 minor sons and 2 minor daughters had along with the petitioner jointly mortgaged the 5 cents house site, together with building, as security for the loan amount. He would further contend that the petitioner and her family members had unequivocally agreed to repay the amount of Rs.1,20,000/- in 120 monthly installments together with 18.5% interest, and in the event of any delay, together with a penalty interest of 1.5% on the overdue amount.

7. Mr.Daniel, learned Government Advocate for the respondents would further state that amount of Rs.80,000/- was paid to one C.Chinnamuthu, from whom the petitioner had borrowed monies and therefore, it was only at the instance of the petitioner that the amount of Rs.80,000/- was paid to C.Chinnamuthu and it is not open to the petitioner to now contend that only Rs.40,000/- was paid to the petitioner and not the entire Rs.1,20,000/-. He would further contend that despite borrowing made in the year 2001, the

petitioner was a chronic defaulter and had repaid only Rs.66,000/- and not Rs.99,060/- as claimed by the petitioner. In this regard, he would rely on the calculations provided in the counter affidavit filed by the 1st respondent in this revision petition at paragraph No.5, which is extracted hereunder:-

5. It is submitted that the petitioner in the mortgage loan No.21/2001-02 had repaid Rupees 66,000/- only as follows:-

S. No.	*Date of remittance*	*Amount paid Rs.*	*Adjusted to*				
			Panel Int.	OD Int.	Int.	Principal	Other charges
1	04.07.2001	2000	16	--	1850	134	--
2	17.08.2002	10000	3873	--	6003	--	124
3	11.10.2003	7000	6850	--	--	--	150
4	14.10.2004	5000	4450	--	--	--	550
5	05.02.2005	10000	9700	--	--	--	300
6	15.02.2005	2000	1900	--	--	--	100
7	19.03.2005	3000	3000	--	--	--	0
8	05.09.2007	10000	9700	--	--	--	300
9	19.04.2010	7000	5700	--	--	--	1300
10	25.08.2010	10000	9900	--	--	--	100
	Total	66000	55089		7853	134	2924

8. The learned counsel would further state that the award passed by the learned Arbitrator was in terms of the contract and rightly the Appellate Court has also refused to interfere. He would therefore pray for the revision being dismissed.

9. I have carefully considered the submissions advanced by the learned counsel on either side.

10. It is not in dispute that the petitioner has availed of a mortgage loan and executed a mortgage along with her husband and minor children. The amount secured under the mortgage is a sum of Rs.1,20,000/-. It is feebly contended by the petitioner's counsel that only Rs.40,000/- was paid to the petitioner. However, this factual aspect has been gone into by the learned Arbitrator and also confirmed by the Appellate Court and it has been rightly found that a sum of Rs.80,000/- was paid to a creditor of the revision petitioner in settlement of his dues. Therefore, in revision, I do not see any grounds to interfere with the concurrent findings regarding the liability of Rs.1,20,000/- as the principal amount.

11. The question now boils down to is the liability of the petitioner to pay interest. According to the respondents, the contractual rate of interest agreed was 20% (18.5% being the interest component plus 1.5% being penalty interest). However, even the learned Arbitrator had awarded only 15% and the decree passed under Section 90 of the Tamil Nadu Co-Operative Societies Act, 1983, being exempt from Section 34 of the Code of Civil Procedure, it is contended by the respondents that the rate of interest fixed by the learned

Arbitrator and confirmed by the Appellate Court does not require to be tinkered with. According to the respondents, as of 30.11.2025, the revision petitioner is liable to pay Rs.13,10,858/- (Decree amount of Rs.5,94,402/- together with interest at 15% per annum from 19.11.2017, that is the date of the award, till date (30.11.2025)).

12. Coming to the decisions that have been relied on, the Hon'ble Supreme Court in *N.M. Veerappa*'s case (referred herein supra), held that Order XXXIV CPC deals with payment of interest on mortgage suits and it was not obligatory in terms of Rule 11 of Order XXXIV CPC, for the Court to require payment at the contract rate of interest, from the date of suit till the date fixed in the preliminary decree, for payment of the amount. The ratio laid down by the Privy Council in *Jaigobind Singh v. Lachmi Narain Ram,* reported in *AIR 1940 FC 20,* and by the Supreme Court itself in *S.P.Majoo Vs. Gangadhar,* reported in *1969 (3) SCR 33* was followed in the said decision, and the Hon'ble Supreme Court, found that the Trial Judge had reduced the rate of interest below the contractual rate. The Hon'ble Supreme Court, finding that the discretion vested in the Court under Order 34 Rule 11 CPC is an independent power and the power is neither traceable to Section 74 of the Contract nor to any power in the Usurious Loans Act, 1918 nor to any State statutes permitting a Court to scale down contractual rates of interest.

13. This decision of the Hon’ble Supreme Court was followed by the Division Bench of this Court in CRP No. 2433 of 2013. In fact, the case before the Hon'ble Division Bench also arose in a similar set of facts to the present case, namely an award passed by the learned Arbitrator of the District Central Co-Operative Society, and confirmed by the learned Principal District Judge, Erode. Following the decision of the Hon'ble Supreme Court, the Hon'ble Division Bench, answering a reference arising out of conflicting views by two learned single Judges of this Court, ultimately held that Section 34 of the Code of Civil Procedure is not applicable to an award passed under the Tamil Nadu Co-Operative Societies Act, 1983; the learned Arbitrator, as well as the tribunal have got absolute discretion to award interest at any reasonable rate, not exceeding the contract rate, following the principles laid down by the Hon’ble Supreme Court in *N.M.Veerappa*’s case (referred herein supra).

14. As already stated herein above, the Hon'ble Division Bench was dealing with a matter that arose under the Tamil Nadu Co-Operative Societies Act and it is now settled law that it is not obligatory for the Arbitrator or the Tribunal to award interest from the date of the claim at the contractual rate. Keeping the ratio laid down by the Hon'ble Supreme Court and the Division Bench in mind, I have gone through the award as well as the judgment passed

by the learned Principal District Judge, the learned Arbitrator has fixed the interest at 15% per annum and the same has been confirmed by the Appellate Court. In order to balance equities and also taking into account the fact that the society should not suffer unduly on account of the default committed by the revision petitioner, I am inclined to modify the interest component to 12% per annum. Accordingly, the petitioner is liable to pay the principal adjudged sum of Rs.5,94,402/-, together with interest at 12% per annum, from 19.11.2017 till date. This concession is however, subject to the petitioner settling the amounts due to the 1st respondent within a period of three (3) months. In the event of the petitioner settling the dues of the 1st respondent within the said period of three (3) months from the date of receipt of copy of this order, she shall be entitled to payment of interest at 12% per annum on Rs.5,94,402/-. In the event of the petitioner not settling the entire dues as indicated above within the said period of three (3) months, then the petitioner shall be liable to pay the amount of Rs.5,94,402/- together with interest at 15% per annum as awarded originally and confirmed by the learned District Judge.

15. In fine, this Civil Revision Petition is partly allowed. Consequently, connected Miscellaneous Petition is also closed. No costs.

30.01.2026

rkp
Neutral Citation Case : Yes/No
Internet: Yes/No
Index : Yes/No

To:
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2.The Secretary,
S.1565 Palace Nagar,
Co-operative Housing Society Ltd.,
Salem -01.
3.The Arbitrator,
Co-operative Sub-Register (Housing),
Salem -II, Salem District.

P.B.BALAJI, J.,

rkp

Pre-delivery order in
CRP. No.5542 of 2025
and CMP. No.27810 of 2025

30.01.2026