

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2018

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAIWAMY

C.R.P(PD).Nos.399 to 401 of 2016
and C.M.P.Nos.2159 to 2161 of 2016UCO Bank,
Thanjavur Branch,
No.44, Rajappa Nagar,
Medical College Road,
Thanjavur - 613 007.

.. Petitioner in all the CRPs

Vs.

A.Jaffar Alikhan

.. Respondent in CRP.399/2016

1.R.Murali

2.A.Jaffar Alikhan

.. Respondents in CRP.400/2016

1.A.Jaffar Alikhan

2.R.Murali

.. Respondents in CRP.401/2016

Civil Revision Petitions filed under Article 227 of the Constitution of India against the orders dated 09.09.2015 made in M.As.No.61, 60 & 59 of 2013 on the file of the Debt Recovery Appellate Tribunal, Chennai against I.A.Nos.214, 207 & 213 of 2013 in O.A.Nos.144, 145 & 143 of 2009 confirming the order dated 19.04.2013 on the file of the Debts Recovery Tribunal - III, Chennai.

For Petitioner (in all CRPs) : Mr.Srinath Sridevan

For Respondents (in all CRPs) : Not ready in notice

COMMON ORDER

(Order of the Court made by M.DURAI SWAMY,J.)

Challenging the order passed in M.A.Nos.59 to 61 of 2013 on the file of the Debt Recovery Appellate Tribunal, Chennai, the petitioner - Bank has filed the above Civil Revision Petitions under Article 227 of the Constitution of India.

2.Since the issue involved in all these Civil Revision Petitions are identical between the same parties, the Civil Revision Petitions are disposed of by this common order.

3.The petitioner - Bank filed O.A.Nos.143 to 145 of 2009 before the Debts Recovery Tribunal - III, Chennai for recovery of the outstanding amounts together with interest. The petitioner - Bank filed the proof affidavit in the pending O.As. In the said O.As, the respondents filed applications in I.A.No.213 of 2013 in O.A.No.143 of 2009, I.A.No.207 of 2013 in O.A.No.145 of 2009 and I.A.No.214 of 2013 in O.A.No.144 of 2009 seeking for cross examination of the deponent N.Sundaresan, the Branch Manager of

<http://www.judis.nic.in> the petitioner - Bank with regard to the averments stated in the proof

affidavit. In the affidavit filed in support of the petitions, the respondents have stated that the cross examination of the deponent of the proof affidavit is very much essential for proving their case. Further, they have stated that the entries made in the statement of accounts are incorrect. Hence, the witness has to be confronted with such entries and therefore, the applications need to be allowed. The Debts Recovery Tribunal, by order dated 19.04.2013, allowed the applications and permitted the respondents to cross examine the witness. Aggrieved over the same, the petitioner - Bank has filed appeals in M.A.Nos.59 to 61 of 2013 before the Debt Recovery Appellate Tribunal, Chennai and the Debt Recovery Appellate Tribunal also confirmed the order passed by the Debts Recovery Tribunal and dismissed the appeals. Against the order passed by the Appellate Tribunal, the Bank has filed the above Civil Revision Petitions.

4. When the petitioner - Bank has filed a proof affidavit to prove their case before the Debts Recovery Tribunal, the respondents should be permitted to cross examine the witness with regard to the averments stated in the affidavit. When the respondents are taking a specific stand that the entries made in the statement of accounts are incorrect and the witness has to be confronted with the same, the respondents should be given an opportunity of cross examination. The petitioner - Bank cannot simply file a proof affidavit and take a stand that the witness should not be cross

examined. The stand taken by the petitioner - Bank is against the provisions of law. The Tribunal has rightly allowed the applications and permitted the respondents to cross examine the witness. The respondents shall have right of cross examination with regard to the averments stated in the proof affidavit and the same cannot be prevented by this Court.

5. In these circumstances, we do not find any ground to interfere with the order passed by the Debt Recovery Appellate Tribunal as well as the Debts Recovery Tribunal. The Civil Revision Petitions are devoid of merits and the same are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

(MRS.V.K.TAHILRAMANI, CHIEF JUSTICE) (M.DURAI SWAMY)

22.11.2018

सत्यमेव जयते

Index : Yes/No

Internet : Yes

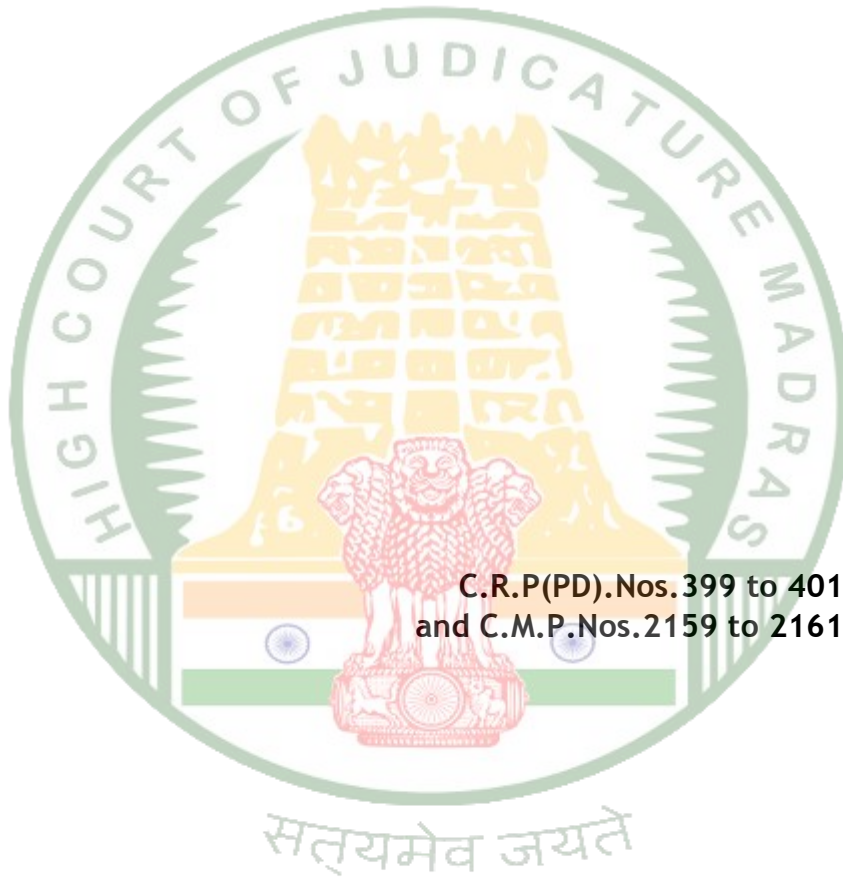
Speaking /Non Speaking Order

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THE HON'BLE
MRS.V.K.TAHILRAMANI
CHIEF JUSTICE
AND
M. DURAISWAMY,J.

va



C.R.P(PD).Nos.399 to 401 of 2016
and C.M.P.Nos.2159 to 2161 of 2016

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