

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(PD) No.3128 of 2018

State Bank of India
Pinnalur Branch
Pinnalur – 608 704
Cuddalore District
Rep. By its Branch Manager

.. Petitioner

v.

- 1 K..Kalaiaarasan
- 2 The Registrar
Debt Recovery Tribunal-III
Deva Towers, Mount Road
Chennai

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 31.07.2018 passed in O.A.No.418 of 2016 on the file of the Debt Recovery Tribunal-III, Chennai.

For Petitioner : Mr.Pothiraj

For Respondents :No appearance

ORDER

(Order of the Court made by The Hon'ble Chief Justice
and M.DURAI SWAMY,J.)

Challenging the order passed in O.A.No.418 of 2016, dated 31.07.2018, on the file of the Debt Recovery Tribunal-III, Chennai, the Bank has filed the above Civil Revision Petition under Article 227 of the Constitution of India.

2. The petitioner-bank filed an application in O.A.No.418 of 2016, on the file of the Debts Recovery Tribunal-III, Chennai for recovery of a sum of Rs.27,05,960/- together with interest and for other reliefs.

3. The petitioner filed the proof affidavit on 03.02.2017. The respondent No.1 remained absent before the Debts Recovery Tribunal, when the matter was listed for hearing on 31.07.2018. Though the Junior counsel represented the counsel on record on behalf of the petitioner-bank, the Debts Recovery Tribunal, erroneously dismissed the Original Application for non-prosecution.

4. When the counsel is representing his/her Senior Counsel, the Tribunal cannot dismiss the Original Application for non-prosecution. The Original Application can be dismissed for non-prosecution, only when there is no representation on behalf of the petitioner. Merely because the counsel on record did not appear on a particular day and only his Junior had appeared, that will not amount to non-prosecution of the matter. The Debts Recovery Tribunal must have accepted the submission made by the Junior Counsel without dismissing the O.A. for dismissal.

5. It is pertinent to note that when the bank is dealing with the public money, utmost caution should be taken by the Tribunal while dismissing the Original Application for non-prosecution, that too, when the Junior Counsel made a representation before it.

6. In these circumstances, the order passed by the Debts Recovery Tribunal-III, Chennai is liable to be set aside. Accordingly, the same is set aside and the matter is remitted bank to the Debts Recovery Tribunal-III, Chennai for deciding the Application in

O.A.No.418 of 2016, on merits and in accordance with law. The Debts Recovery Tribunal-III, Chennai is directed to decide O.A.No.418 of 2016 as expeditiously as possible.

With these observations, the Civil Revision Petition is allowed.

No costs.

Index : Yes/No

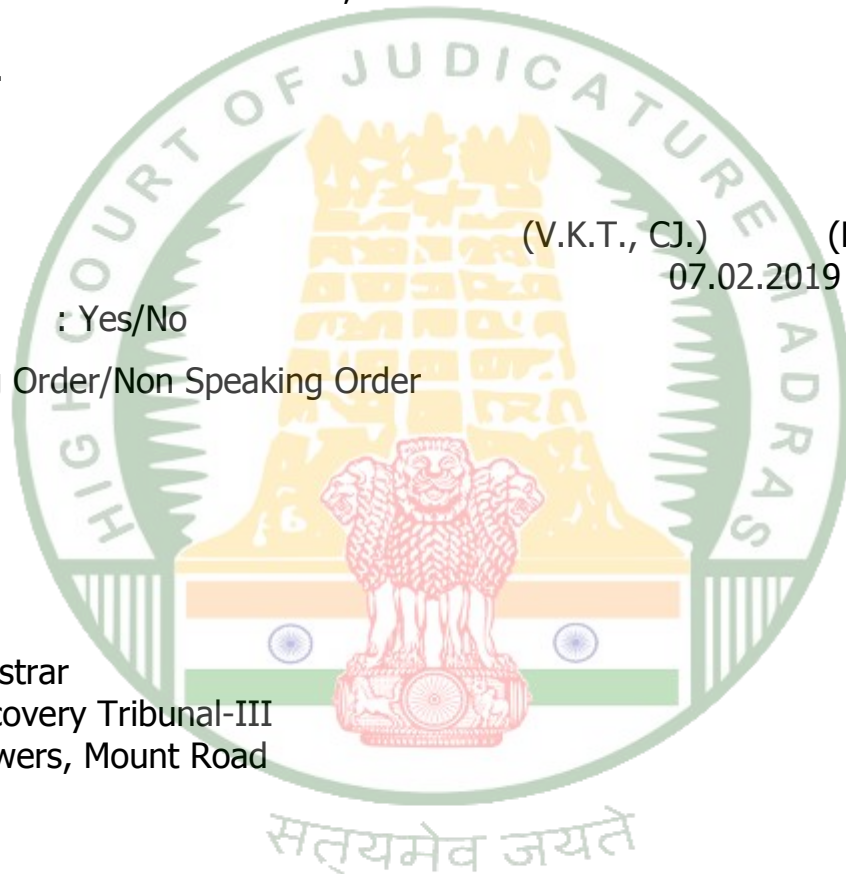
Speaking Order/Non Speaking Order

Rj

To

The Registrar
Debt Recovery Tribunal-III
Deva Towers, Mount Road
Chennai

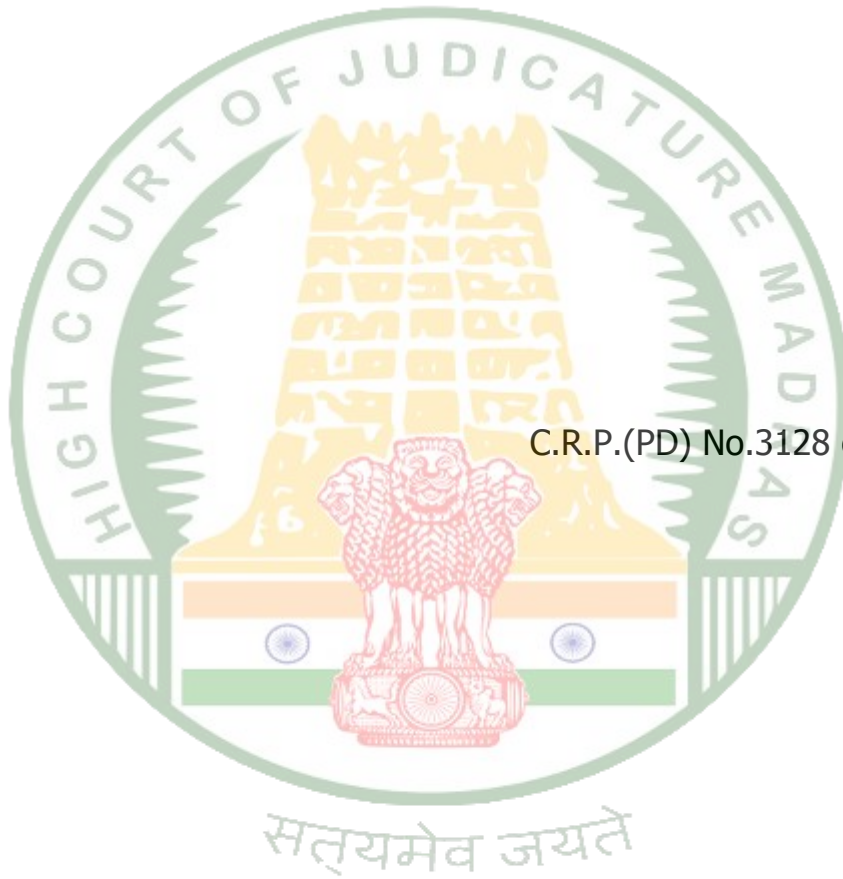
(V.K.T., CJ.) (M.D., J.)
07.02.2019



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THE HON'BLE CHIEF JUSTICE
AND
M. DURAISWAMY,J.

Rj



C.R.P.(PD) No.3128 of 2018

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