

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2019

CORAM

THE HONOURABLE **Ms.JUSTICE P.T.ASHA**

CRP(NPD).No.3299 of 2018

and

C.M.P.No. 18655 of 2018

R.Prabhakaran

..Petitioner/1st Defendant

Vs

1.Sivasankari

..1st Respondent/ Plaintiff

K.Ramalingam (Deceased)

2.Vijaya

3.Solai

4.Rajkumari

5.Suseela

..Respondents/Defendants

This Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside docket order dated 18.04.2018, passed by the Learned District Court, Nagapatinam in E.P.No. 3 of 2018 in O.S.No.48 of 2004 and to further direct such suitable orders as this Hon'ble Court may deem fit.

For Petitioner : Mr.Perumbulavil Radhakrishnan

For R1 : Mr.P.Dinesh Kumar

For R2 to R5 : Not ready in notice

ORDER

The above Civil Revision Petition is filed challenging the order passed by the Executing Court (the learned District Munsif, Nagapattinam) in E.P.No.3 of 2018, in and by which, on the very first hearing, after the filing of the VAKALATH, the learned Judge has ordered delivery, since, counter has not been filed. No opportunity

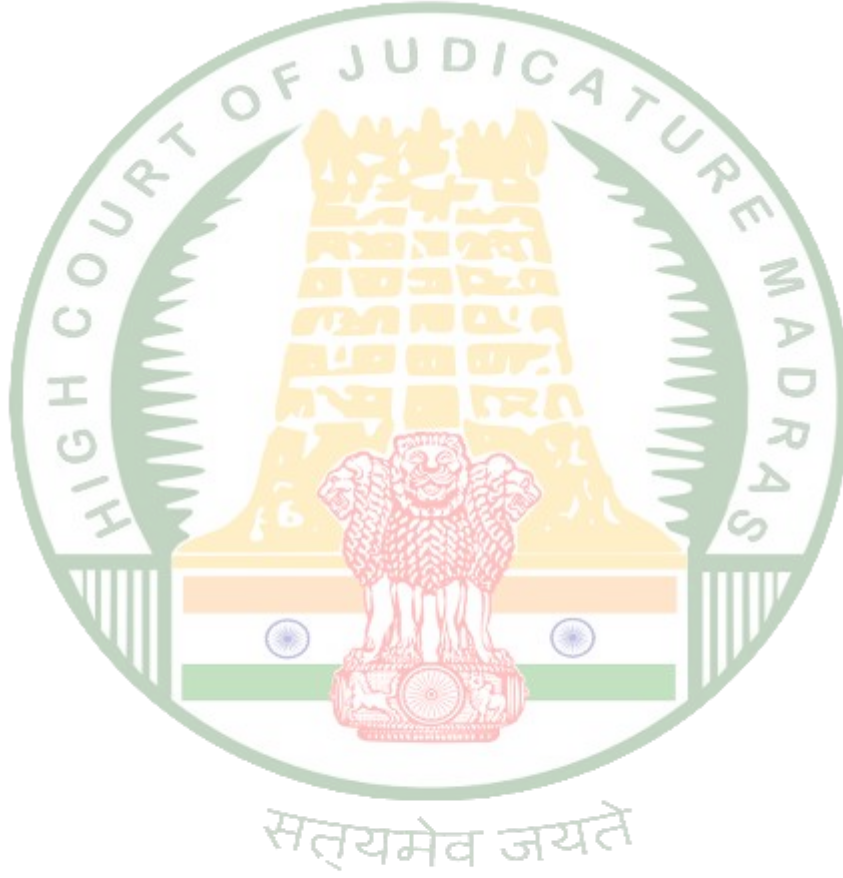
has been given to the revision petitioner/ Judgment Debtor to be put fourth his defence to the execution proceedings. The learned counsel appearing for the revision petitioner would submit that the subsequent conduct of the decree holder and the delay has to be brought to the notice of the Court.

2 Considering the fact that an opportunity has not been granted, this Court is of the opinion that the order dated 18.04.2008 in E.P.No.3 of 2018, should be set aside and the Judgment Debtor should be given an opportunity to file his counter, which he shall file within a period of two weeks from the date of receipt of a copy of this order. It is also brought to the notice of this Court by the decree holder that pending the execution proceedings, the Judgment Debtor is alienating properties. The parties are hereby directed to maintain status-quo till the disposal of the execution proceedings.

3 In the result, the Civil Revision Petition is allowed on the above observations. No costs. Consequently, connected miscellaneous petition is also closed.

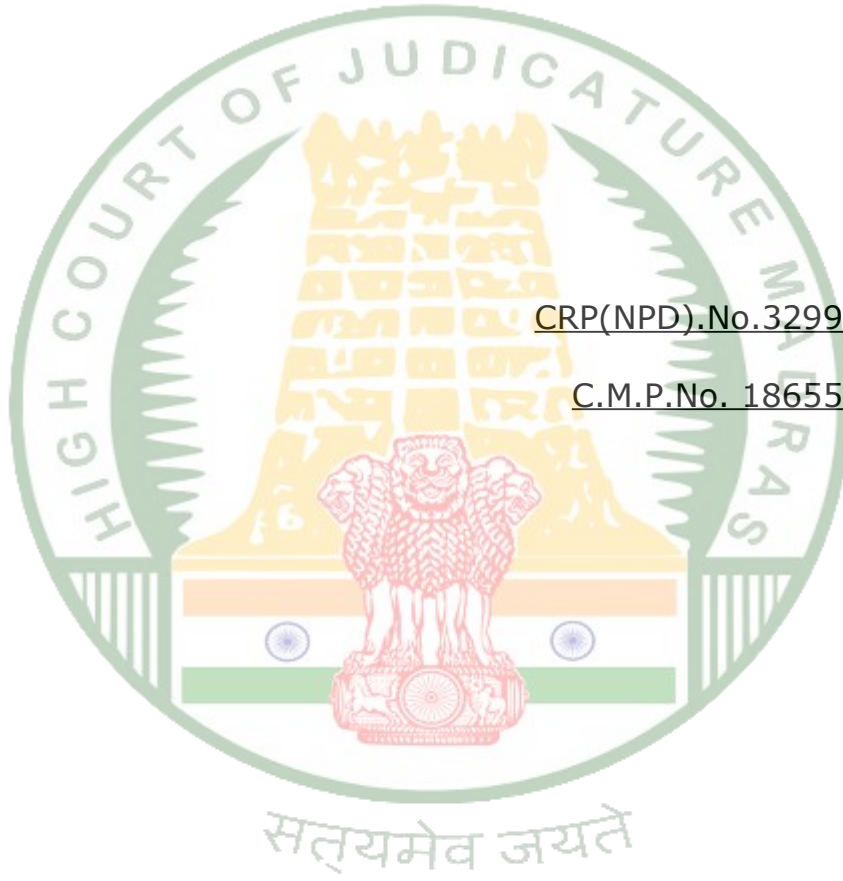
Index: Yes/No
Internet: Yes/No
Speaking order / Non-speaking order

To
The learned District Court,
Nagapatinam.



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P.T.ASHA, J.
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