

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2016

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE MR. JUSTICE R.MAHADEVAN

O.S.A.Nos.342 & 343 of 2011

The Madras Purasawalkam Hindu
Janopakara Saswatha Nidhi Limited,
rep. By its Commissioner,
No.168, Vellala Street,
Purasawalkam, Chennai-600 084. ... Appellant in both
appeals

vs

1.E.S.Rajabather, S/o.Late S.Swaminathan
Old No.37, New No.85, First Main Road,
Gandhi Nagar, Adyar, Chennai-600 020
rep. by its Power Agent T.Sridhar, S/o.T.S.Thattachari
4th Floor, Old No.37,
New No.85, First Main Road,
Gandhi Nagar, Adyar, Chennai-600 020.
2.Sri Raja & Co.,
Auctioners,
No.7, Sunkurama Chetty Street,
First Floor, Chennai-600 001. ... Respondents in
both appeals

Original Side Appeals filed under Order XXXVI, Rule 9 of
Original Side Rules read with Clause 15 of Letters Patent
against the order dated 23.3.2011 in Application Nos.6263 and
6264 of 2009 in C.S.No.738 of 2002 on the file of this Court.

For Appellant .. Mr.M.Devaraj

For Respondents ... Mr.P.Saravanan for R1

* * * * *

COMMON JUDGMENT

(Judgment of the Court was delivered by The Hon'ble Chief
Justice)

The impugned order of the learned Single Judge actually
states that the prayer made by the appellant for appointment of
the receiver and vacation of the injunction need not be
considered, as the matter was being set down for trial by the
Master. We are informed that the trial has not been proceeded

for the last five years. That being the very premise on which the order was passed, we are of the view that the impugned order dated 23.3.2011 cannot be sustained and is set aside and the matter is remitted back to the learned Single Judge for consideration of A.Nos.6263 & 6264 of 2009 in C.S.No.738 of 2002 on merits.

2. The suit be also placed before the learned Single Judge on 29.09.2016, as we are told, even the Issues have not been framed.

3. The appeals are accordingly disposed of. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

The Sub Assistant Registrar,
Original Side, High Court, Madras.

+1 cc to Mr.M.Devaraj,advocate,sr.53131

+1 cc to Mr.P.Saravanan,advocate,sr.53616.

pvs (co)
krd 27/9

O.S.A.Nos.342 & 343 of 2011

सत्यमेव जयते
WEB COPY