

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

O.S.A. Nos.445 to 447 of 2011

and M.P.Nos.1,1,1, 2 and 2 of 2011

N.Balasubramanian .. Appellant in all OSAs.

-vs-

1.Madhuri Mathur

2.Vivek Mathur

3.M/s.Power Control and Appliances
(Bombay) Pvt. Ltd., rep. By its
Director, Mr.Vivek Mathur.

4.M/s.Sumeet Research and Holdings
Pvt. Ltd., Rep. By its Group Chairman
and Direct, MR.Vivek Mathur. .. Respondents 1 to 4
in all OSAs.

5.M/s.Surana Corporation Ltd.,
Rep. By its Managing Director. .. 5th respondent in
OSAs. 446 and 447/2011

Appeals filed under Order XXXVI Rule 1 of O.S. Rules read with Clause 15 of the Letters Patent against the common order dated 16.11.2011 passed in O.A.Nos.508 and 509 of 2011 and A.No.2726 of 2011 in C.S.No.1039 of 2010 on the original side of this Court.

For Appellant : Mr.AR.L.Sundaresan, Sr. Counsel
for Mr.Arun Anbumani in all OSAs

For Respondents : Mr.P.Krishnan for R-5 in
all OSAs

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J U D G M E N T

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

On hearing the learned counsel for parties, we find that the original four defendants in the suit have not even entered appearance in the appeals and are stated not to have filed even

their defence to the written statement for the last six years. The fifth respondent in the O.S.A.Nos.446 and 447 of 2011 / 5th respondent in O.A.No.509 of 2011 and A.No.2726 of 2011 is only a purchaser of a property of the first four respondents and claims to have paid most of the consideration for clearance of statutory dues.

2.The endeavour of the appellant to obtain an injunction against another property owned by the first respondent was initially successful in terms of order dated 14.06.2011, but that order was also vacated by the impugned order dated 16.11.2011. The said property is the land and building situated at Old Door No.17, New Door No.67, Greenways Road, Raja Annamalaipuram, Chennai 600 028, which forms the subject matter of O.A.No.508 of 2011. The relief prayed for was by way of injunction under Order 39 Rules 1 and 2 of the C.P.C. The sole ground of rejection of that relief is that since the property was not subject matter of suit, no injunction could have been granted against the same.

3.The present position qua the aforesaid Greenways road property is also not known.

4.On a consideration of the matter, it is agreed that the appellant may find out the current position of title of the Greenways road property or any other property owned by the first four respondents and would be at liberty to move an application for attachment to secure a decree, which may be passed against the appellant. If such an application is filed, it will be considered on its own merits and the order passed in O.A.No.508 of 2011, which is on technical grounds, would not come in the way of consideration of the second application. On such application being filed, the suit can also be listed before the Court on account of failure of the original defendants to file their written statement.

5.Original Side Appeals are, accordingly, disposed of, leaving the parties to bear their own costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CCC)

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Sub Asst. Registrar

To

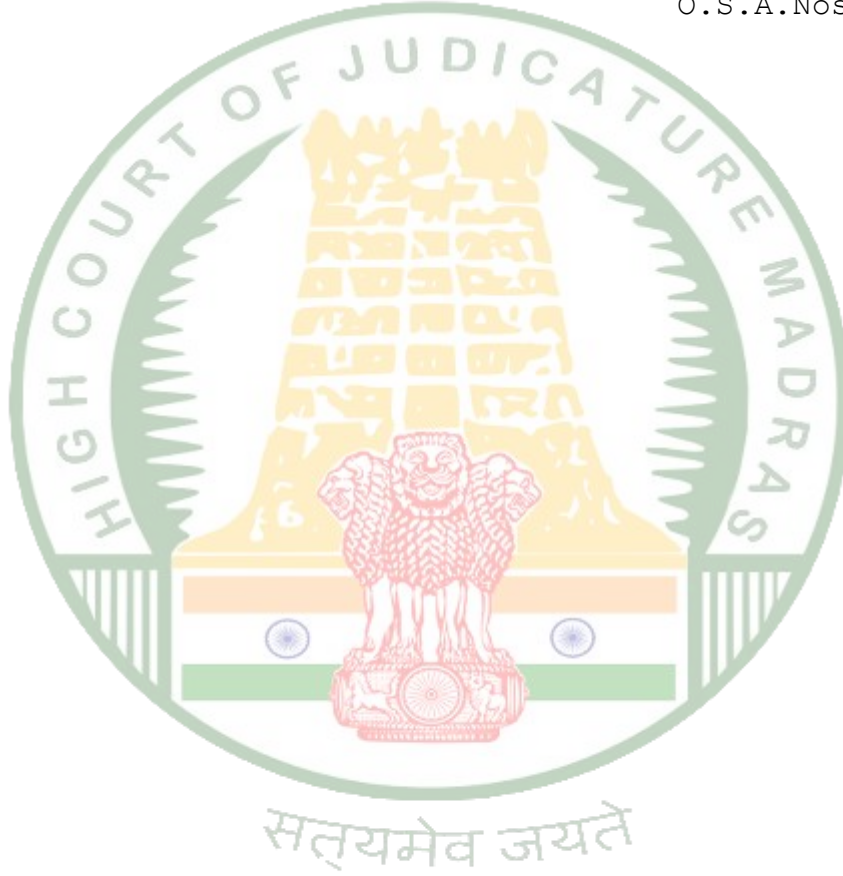
The Sub Assistant Registrar
Original Side, Madras High Court,
Chennai.

+1 cc to mr.P.Krishnan,advocate,sr.52367

+1 cc to Mr.Arun anbumani,advocate,sr.52383.

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O.S.A.Nos.445 to 447
of 2016



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