

O.A.No.107 of 2020
in
C.S.No.564 of 2006

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DR.G.JAYACHANDRAN,J.

This application is filed to appoint a Receiver to take charge of the assets of the partnership firm M/s Yule Engineering Corporation and conduct the business (as per the directions in order dated 18.12.2013 passed by the Division Bench in O.S.A.No.32 and 33 of 2011) pending disposal of the present suit.

2.The long and short of the background facts leading to this application is that in a suit filed for dissolution of partnership and rendition of accounts in the year 2006, a preliminary decree was passed on 19.12.2007 and followed by that a consent decree was passed on 03.03.2008. Subsequently, the Court has appointed a Receiver pursuant to the preliminary decree to take possession of the assets, ledger and other books of accounts. In the course of the pendency of the proceedings, the 2nd defendant has taken out an application in A.No. 3244 of 2008 directing the 1st defendant to file certain documents.

3. In the said application, the tenants in the suit premises have filed a memo that has led to an order by the learned Single Judge on 15.12.2009. The said order was challenged in O.S.A.Nos.32 and 33 of 2011, after lengthy discussion of the issue involved, a composite direction has been passed by the Division Bench, which reads as under:

"46. In the result, the appeals are allowed and the impugned order in Application No.3244 of 2008 dated 15.12.2009 is set aside and the following directions are issued:

(i) The Application No.3244 of 2008 shall stand restored and the same shall be decided on merits and in accordance with law.

(ii) The Advocate Receiver shall file an appropriate Application in the suit claiming for such reliefs as he may deem fit and appropriate for the purpose of executing and implementing the consent decree dated 03.03.2008 and in such application the applicants shall be impleaded as respondents.

(iii) On the Application being filed by the Advocate Receiver, the applicants as well as the respondents herein are entitled to file their counter and place all contentions as may be available to them under fact and law.

(iv) On counters being filed, the Court shall permit the parties i.e the appellants as well as the respondents to lead oral as well as documentary evidence as they may deem fit.

(v) Therefore, the application so filed by the Advocate Receiver shall be heard and decided on all issues that may be raised.

(vi) The appellants herein are directed to be impleaded for the purpose of giving a complete and effective and adequate adjudication of the matter in dispute to enable the Court to give effect to the consent decree dated 03.03.2008.

(vii) The Hon'ble Supreme Court during the pendency of Civil Appeal Nos.447 and 448 of 2011, granted an interim order which was directed to be continued in the final order dated 12.01.2011. In the light of the order passed in these appeals, the interim order granted by the Hon'ble Supreme Court shall continue till the disposal of the application to be filed by the Advocate Receiver. No costs."

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4. Pursuant to this order, the plaintiff has taken out an application to implead the tenants as defendants 3 and 4 and the same has been allowed. However, now it is pointed out that the

plaintiff ought to have impleaded the tenants in the application in A.No.3244 of 2008 also. The learned counsel appearing for the plaintiff undertakes to file an appropriate application in the due course.

5. As far as the Receiver appointed by this Court is concerned, the learned counsels report that Mr.S.Ramalingam was appointed as Receiver and as per the memo, Mr.S.Ramalingam is withdrawing from the responsibility of the Receiver and as of now, there is no Receiver to proceed with the implement of the preliminary decree and in O.S.A.Nos.32 and 33 of 2011, the Court has indicated further course of action to be taken by the Receiver and in view of the memo filed by the former Receiver, it is essential to appoint a Receiver to continue further action implementing the preliminary decree vide, order dated 19.12.2007. The plaintiff has taken out this application No.107 of 2020 to that effect.

6. For the reasons narrated above, this application is allowed. **Mr.V.Srikanth, Advocate, having office at M-14A, Singapore Plaza, First Floor, No.337, Linghi Chetty Street,**

Parrys, Chennai 600 001(cell.No.98400 75512) is appointed as a Receiver. A sum of Rs.25,000/- pm shall be given to the Receiver as an initial remuneration, which can be equally shared by the plaintiff and the first defendant.

20.02.2020

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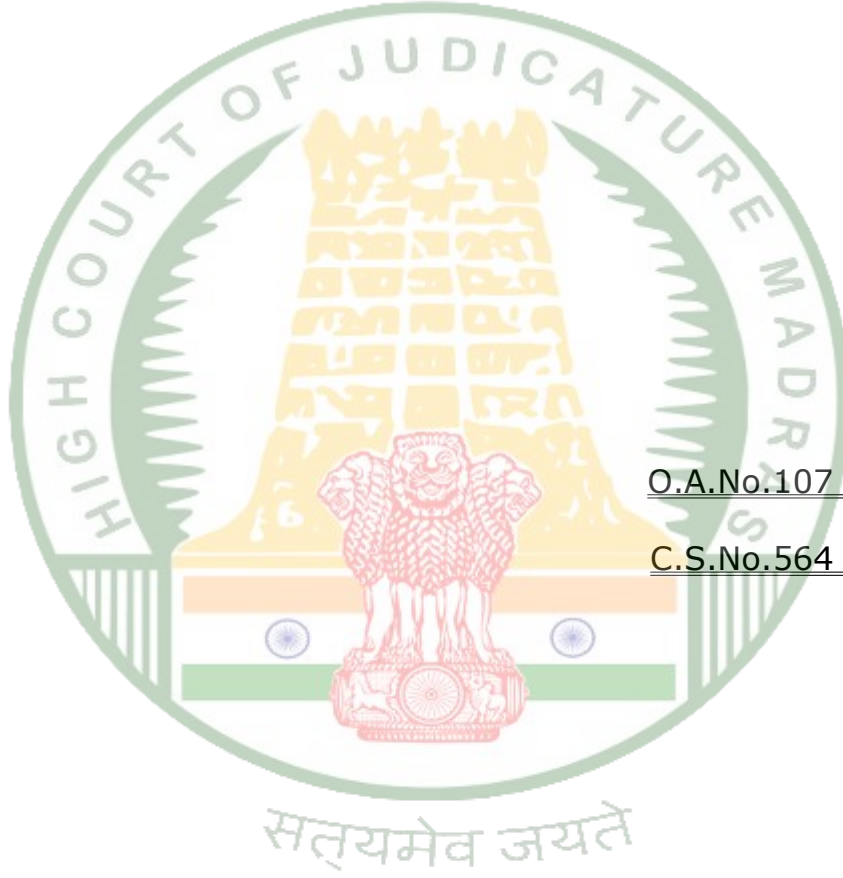


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