



OSA.Nos.430 of 2001 etc batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2025

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CORAM :

**THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE N. SENTHILKUMAR**

**O.S.A.Nos.430 & 431 of 2001, Com.Appeal No.17 of 2009 and
CMA No.403 of 2007**

And

**CMP.Nos.9992 , 9993 & 9977 of 2025 & & CMP.Nos.8557, 8559 &
2007 of 2025**

O.S.A.No.430 of 2001

Mrs.C.Mangala Vijayalakshmi

.... Appellant

vs

1.K.S.Kasimaris Ceramique (P) Ltd.,
Rep.by its Managing Director,
Mr.K.S.Anantharaman,
50, Pulla Avenue,
Shenoy Nagar, Chennai - 30.

2.Mr.K.S.Damodharan
3.Mr.K.S.Anantharaman
4.Tmt.Paulthai Shanmugasundaram
5.K.S.Mothilal (deceased)
6.Mr.S.Johnson
7.Mrs.Thirugnanam
8.Mrs.Satya Priya
9.Mr.Deepa Sundaram
10.Mrs.Nandini Devi
(R7 to R10 brought on record as LRs
of deceased R5 vide order of the Court
dated 9/12/2009 made in CMP.
Nos.1548 to 1550 of 2009)

.. Respondents



OSA.Nos.430 of 2001 etc batch

O.S.A.No.431 of 2001

Mrs.C.Mangala Vijayalakshmi

.... Appellant

vs

- 1.K.S.Damodharan
(Contributory & Chairman)
 - 2.K.S.Kasimaris Ceramique (P) Ltd.,
50, Pulla Avenue, Shenoy Nagar,
Chennai – 600 030.
 - 3.Tmt.Paulthai Shanmugasundaram
 - 4.K.S.Mothilal (Deceased)
 - 5.K.S.Anantharaman
 - 6.S.Johnson
 - 7.Indian Overseas Bank
Sowcarpet Branch,
Rep.by its Chief Manager,
No.143, N.S.C.Bose Road,
Chennai - 79.
 - 8.Mrs.Thirugnanam
 - 9.Mrs.Satya Priya
 - 10.Mr.Deepa Sundaram
 - 11.Mrs.Nandini Devi
- (RR8 to 11 brought on record as LRs
of deceased R4 vide Court order
dated 09.12.2009 made in
CMP.Nos.1551 to 1553 of 2009)*

.. Respondents

Com.Appeal No.17 of 2009

- 1.K.S.Kasimaris Ceramique Private Limited
- 2.K.S.Damodharan

..Appellants

vs.

- 1.Mr.K.S.Mothilal (died)
- 2.Mr.K.S.Anantharaman
- 3.Mrs.Paulthai Shanmugasundaram
- 4.Mr.S.Johnson
- 5.Mrs.C.Mangala Vijayalakshmi
- 6.Mr.A.N.Annamalai alias Senji Annamalai (Died)
- 7.ICICI Bank Limited



OSA.Nos.430 of 2001 etc batch

- A-78 Plot No.3211
Third Avenue
Anna Nagar, Chennai - 600 102.
- 8.The South Indian Bank Limited
Anna Nagar Branch,
995-E Second Avenue
Anna Nagar, Chennai - 600 040.
- 9.Canara Bank
Shenoy Nagar Branch
Chennai - 600 030.
- 10.Mr.G.Rangaraj
11.Mr.G.Nagaraj
12.Mr.G.Badrinath
13.Mr.R.Chandra Gupta
14.Mr.K.K.Ramalingam
15.Ms.Vijayakumari
16.Ms.D.Kavita
17.M/s.Iswaryalaxmi Properties (P) Limited
Mr.D.L.Madusudanan, M.D.
2233/1, AF - Block, 11th Main Road,
Anna Nagar, Chennai - 600 040.
- 18.Ms.G.Kalaiarasi
19.Mr.Kumara Guru
20.Ms.T.Lalitha
21.Mr.N.Pushparajan
22.Mr.A.Thanigaivel
23.Mr.V.P.Arumugan
24.Ms.S.Lakshmi
25.Ms.V.Dhanabackiam
26.Mr.B.Masilamani
27.Mr.R.Sankaralingam
28.Mr.D.Mahaswaran
29.Ms.Usha Rani
30.Mr.Rajeev
31.Mr.S.Anandakumar
32.Ms.A.Anuradha
33.Ms.G.Leelavathi
34.Mr.K.Karthikeyan
35.Ms.P.Chandra
36.Mr.P.Palanivel
37.Ms.M.K.Devi



OSA.Nos.430 of 2001 etc batch

- 38.Mr.K.Kapil Dev
39.Ms.Anitha Lakshmi
40.Mr.Surya Pratap Reddy
41.Ms.Manoja Lakshmi
42.Mr.N.Jayachandran
43.Ms.E.Latha
44.Mr.J.Elumalai
45.Mr.S.Ramakrishnan
46.Ms.Vijaya Sudha
47.Mr.G.Satyanarayana
48.Mrs.R.Sharada
49.Mr.P.Rajendra Prasad Babu
50.Ms.Malleswari Nayagam
51.Mr.P.Raju
52.Mr.R.S.Soundar Rajan
53.Ms.S.Annalakshmi Jansi
54.Mr.R.Munusamy
55.Ms.P.Valliammal
56.Mr.R.Arunachalam
57.Mr.J.Karunakaran
58.Mr.M.Akbar Basha
59.Thirugnanam Mothilal
60.P.Sathyapriya
61.M.Nandinidevi
62.M.Deepa Sundaram
*(RR59 to 62 brought on record as LRs
Of the deceased R1 vide order of Court
Dated 01.08.2011 made in M.P.
Nos.2 to 4 of 2009 in Company Appeal
No. 17/09)
(Respondent-1 Died. Respondents 59 to 62 are brought on record
as LRs of the deceased R1 viz. K.S.Mothilal vide court order dated
27/02/2025 made in O.S.A.Nos.430 and 431 of 2001 and Com.Apel No.17
of 2009 and CMA No.403 of 2007 and CMP.No.2007 of 2025 and
M.P.Nos.1 of 2009 and 1 of 2007 and CMP.Nos.4862 4868 and 4869 of
2025 and CMP.Nos.4877, 4883, 4878, 4880, 4882 and 4885 of 2025 by
ASMJ and CKJ.)*
63.P.Valliammal
64.A.Mangayerkarasi
65.R.Rajalakshmi



OSA.Nos.430 of 2001 etc batch

66.Rajalakshmi Sundaramoorthy
67.Vetrivel Sundaramoorthy

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(Respondent – 6 Died. Respondents 63 to 67 are brought on record as LR's of the deceased R6 Viz., Mr.A.N.Annamalai alies Senji Annamalai vide Court order dated 27/02/2025 made in O.S.A.Nos.430 and 431 of 2001 and Com.Apel No.17 of 2009 and CMA No.403 of 2007 and CMP.No.2007 of 2025 and M.P.Nos.1 of 2009 and 1 of 2007 and CMP.Nos.4862, 4868 and 4869 of 2025 and CMP. Nos.4877, 4883, 4878, 4880, 4882 and 4885 of 2025 by ASMJ & CKJ.)

C.M.A.No.403 of 2007

Mrs.C.Mangala Vijayalakshmi

.. Appellant

Vs.

- 1.K.S.Mothilal (Deceased)
- 2.K.S.Kasimaris Ceramique Pvt.Ltd
New No.57, Old No. 50,
Pulla Avenue, Shenoy Nagar,
Chennai – 60 0030.
- 3.Mr.K.S.Damodaran
- 4.Mr.K.S.Anantharaman
- 5.Mrs.Paulthai Shanmugasundaram
- 6.Mr.S.Johnson
- 7.A.N.Annamalai alias Senji Annamalai (died)
- 8.ICICI Bank Ltd
A-78 Plot No.3211
Third Avenue, Anna Nagar,
Chennai – 600 102.
- 9.The South Indian Bank Ltd
Anna Nagar Branch
995-E Second Avenue,
Anna Nagar, Chennai 600 040.
- 10.Canara Bank
Shenoy Nagar Branch,
Chennai – 600 030.
- 11.Mr.G.Rangaraj
- 12,Mr.G.Nagaraj
- 13.Mr.G.Badrinath
- 14.Mr.R.Chandra Gupta



OSA.Nos.430 of 2001 etc batch

- 15.Mr.K.K.Ramalingam
- 16.Ms.Vijayakumari
- 17.Ms.D.Kavitha
- 18.M/s.Iswaryalaxmi Properties (P) Ltd
Mr.D.L.Madusundanan, M.Dth
2233/1, AF – Block, 11 Main Road,
Anna Nagar, Chennai – 600 040.
- 19.Ms.G.Kalaiarasi
- 20.Mr.Kumara Guru
- 21.Ms.T.Lalitha
- 22.Mr.N.Pushparajan
- 23.Mr.A.Thanigaivel
- 24.Mr.V.P.Arumugam
- 25.Ms.S.Lakshmi
- 26.Ms.V.Dhanabackiam
- 27.Mr.B.Masilamani
- 28.Mr.R.Sankaralingam
- 29.Mr.D.Mahaswaran
- 30.Ms.Usha Rani
- 31.Mr.Rajeev
- 32.Mr.S.Anandakumar
- 33.Ms.A.Anuradha
- 34.Ms.G.Leelavathi
- 35.Mr.K.Karthikeyan
- 36.Ms.P.Chandra
- 37.Mr.P.Palanivel
- 38.Ms.M.K.Devi
- 39.Mr.K.Kapil Dev
- 40.Ms.Anitha Lakshmi
- 41.Mr.Surya Pratap Reddy
- 42.Ms.Manoja Lakshmi
- 43.Mr.N.Jayachandran
- 44.Ms.E.Latha
- 45.Mr.J.Elumalai
- 46.Mr.S.Ramakrishnan
- 47.Ms.Vijaya Sudha
- 48.Mr.G.Satyanarayana
- 49.Mrs.R.Sharada
- 50.Mr.P.Rajendra Prasad Babu(Died)
- 51.Ms.Malleswari Nayagam



OSA.Nos.430 of 2001 etc batch

52.Mr.P.Raju
53.R.S.Soundar Rajan
54.Mrs.S.Annalakshmi
55.Mrs.Thirugnanam
56.Mrs.Satya Priya
57.Mr.Deepa Sundaram
58.Mrs.Nandini Devi

*(RR55 to 58 brought on record as LRs
of the deceased R1 vide order of Court
Dated 01/08/2011 made in CMP.
Nos.1 to 3 of 2009 in CMA 403 of 2007)*

59.Mrs.P.Valliammal
60.Mrs.A.Mangayarkarasi
61.Mrs.Rajalakshmi.R
62.Mrs.Rajalakshmi Sundaramoorthy
63.Mr.Vetrivel Sundaramoorthy
64.Vyjayanthy
65.Swetha
66.Sneha Jagajit

*(Respondent 50 Died. Respondents 64 to 66 are brought on record as LRs
of the deceased R-50 viz. P.Rajendra Prasad Babu vide Court order
dated 27.02.2025 made in O.S.Nos.430 and 431 of 2001 and Com.Apel
No.17 of 2009 and CMA No.403 of 2007 and CMP.No.2007 of 2025 and
M.P.Nos.1 of 2009 and 1 of 2007 and CMP.Nos.4862, 4868 and 4869 of
2025 and CMP Nos.4877, 4883, 4878, 4880, 4882 and 4885 of 2025 by
ASMJ & CKJ)*

Prayer in O.S.A.No.430 & 431 of 2001: Appeals filed under Clause 15
of Letters Patent read with Section 483 of Companies Act 1/1956 to set
aside the order passed in C.P.Nos.274, 199 of 1998 dated 19.10.2001 on
the file of the Original Side, High Court, Madras and order winding up of
the 1st respondent Company.

Prayer in Company Appeal No.17 of 2009: Company Appeal filed
under Order 43 Rule 1 CPC and Section 10F of Companies Act 1956 to
set aside the order passed in C.P.No.16 of 2003 (APB) on 4.12.2006 by



OSA.Nos.430 of 2001 etc batch

the Company Law Board, Southern Region Bench, Madras by directing

the 2nd, 3rd & 4th Respondent/Respondents to deposit the entire alleged

sale consideration collected from 10th to 58th Respondents/Respondents

and thereafter to surrender the 1st Appellant Company's 13.77 acres of Maduravoyal Property in the Civil Suit C.S.No.477 of 2000 on the file of the High Court, Madras within thirty days from the date of disposal of the above C.M.A and allow the same.

Prayer in C.M.A.No.403 of 2007: Appeal filed under Section 10F of the

Companies Act, 1956 against the order dated 4th December 2006

(received on 7th December 2006) of the Company Law Board, Additional Principal Bench at Chennai passed in Company Petition No.16 of 2003.

<i>Case No.</i>	<i>For Appellant</i>	<i>For Respondents</i>
O.S.A.No.430 of 2001	Mr.A.K.Sriram Senior Counsel for Mr.M.Sudhan	Mr.K.M.Kodaiarasu for R1, R3 & R6 No appearance for R5, R7 to R11
O.S.No.431 of 2001	Mr.A.K.Sriram Senior Counsel for Mr.M.Sudhan	Mr.K.M.Kodaiarasu for R2, R5 & R6 R4 - died No appearance for R7 to R11
Company Appeal No.17 of 2009	No appearance For the appellant	Mr.K.M.Kodaiarasu For R2 to R4 Respondents 1, 6 & 49 Died



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OSA.Nos.430 of 2001 etc batch

		No appearance for respondents 5,7 to 10, 12, 16 to 20,22, 23, 25, 26, 28, 29 to 35, 36 to 48 and 50 to 57, 58 to 62. Respondents 63 to 67 Impleaded as LR's of R6 (died) – No notice ordered
C.M.A.No.403 of 2007	Mr.A.K.Sriram Senior Counsel for Mr.M.Sudhan	Mr.K.M.Kodaiarasu for R2, R4 & R6 Mr.P.V.Balasubramaniam Senior Counsel For Mr.P.Siddharth For R16, R22, R23, R25, R26, R27, R32 to R47 Mr.P.H.Arvind Pandian, Senior Counsel for Mr.Adinarayana Rao – R17 and R18 Mr.P.Sivamani – R30 & R52 Mr.T.Mano and R.C.Harsh Vardhan For R11 to R14, R48 & R49 Mr.Rahul Balaji For R29

COMMON JUDGMENT

(Judgment of the Court was delivered by Dr.ANITA SUMANTH.,J)



OSA.Nos.430 of 2001 etc batch

We have heard the submissions of Mr.A.K.Sriram, learned Senior Counsel for Mr.M.Sudhan for the appellant in O.S.A.Nos.430 and 431 of 2001 and C.M.A.No.403 of 2007, Mr.P.V.Balasubramanian, learned Senior Counsel for Mr.Siddharth.P for R16, R22, R23, R25, R26, R27, R32 to R47 in C.M.A.No.403 of 2007, Mr.K.M.Kodaiarasu, learned counsel for R1, R3 and R4 in O.S.A.No.430 of 2001, R2 to R4 in Company Appeal No.17 of 2009, R2, R3 and R5 in O.S.A.No.431 of 2001 and R2, R4 and R6 in C.M.A.No.403 of 2007, Mr.Balachandran, learned counsel for R11, R14, R48 and R49 and Mr.Rahul Balaji, learned counsel for R29 in C.M.A.No.403 of 2007.

2. While Mr.Santhanaraman, learned counsel is on record for Mr.K.S.Anantharaman, who is R3, R5, R2 and R4 in O.S.A.Nos.430 and 431 of 2001, Company Appeal No.17 of 2009 and C.M.A.No.403 of 2007 respectively, he had represented before us that he would not be representing Mr.K.S.Anantharaman, on and from the hearing on 26.06.2025. The reason is that, on 23.04.2025 all parties had expressed an inclination to settle the litigation amicably, since, after all, they are siblings.

3. The matter was hence referred to Mr.Kabir, learned Senior Counsel and Senior Mediator after obtaining the consent of all parties. However, the proceedings for mediation could not fructify, since



Mr.K.S.Anantharaman appears to have written a letter to Mr.Kabir indicating that he will attend the mediation only if it were to be conducted by a retired Judge of the Court.

4. When the matter was subsequently posted to review progress in the mediation, the report of the Mediator was before the Court and it was only at that juncture that Mr.Santhanaraman came to be aware of the letter written by his client. He hence disengaged himself and informed the Court that he would not henceforth appear for him. His vakalath has however not been withdrawn, and remains on record.

5. K.S.Mothilal, who is no more had filed C.P.No.16 of 2003 before the Company Law Board, that had come to be dismissed as withdrawn. Notice had been issued to his legal heirs also to participate in the mediation. Unfortunately, Mr.Kabir reports that the efforts towards mediation have failed.

6. The details of each of the matters listed today are extracted below:

CASE NOS.	Prayer in High Court	Prayer in Lower Court
<i>O.S.A.Nos.430 & 431 of 2001</i>	<i>To set aside the order passed in C.P.Nos.274, 199 of 1998 dated 19.10.2001 on the file of the Original Side, High Court, Madras and order winding up of the 1st respondent Company.</i>	C.P.No.274 of 1998 <i>a.Order winding up the Company, M/s.Kasimaris Ceramic (P) Ltd., 50, Pulla Avenue, Shenoy Nagar, Chennai-30 and settle the claim of the Petitioner.</i>



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OSA.Nos.430 of 2001 etc batch

		<i>b.Appoint provisional Liquidator to take charge of the Assets of the Company.</i> C.P.No.199 of 1998 <i>To appoint an Official Liquidator and also order the</i> <i>Winding of the 1 Respondent Company, M/s.K.S.Kasimaris Ceramique Pvt. Ltd., Chennai-30, and distribute its assets and share values to the Contributories and Creditors and as a part thereof allot 60% Share to the Petitioner by way of intestate succession or 80% Share to the Petitioner by way of Testamentary succession.</i>
<i>Company Appeal. No.17 of 2009</i>	<i>To set aside the order passed in C.P.No.16 of 2003 (APB) on 4.12.2006 by the Company Law Board, Southern Region Bench, Madras by directing the 2nd, 3rd & 4th Respondent/ Respondents to deposit the entire alleged sale consideration collected from 10th to 58th Respondents/ Respondents and thereafter to surrender the 1 Appellant Company's 13.77 acres of Maduravoyal Property in the Civil Suit C.S.No.477 of 2000 on the file of the High Court, Madras within thirty days from the date of disposal of the above C.M.A and allow the same.</i>	C.P.No.16 of 2003 <i>i)to direct the Company to effect transmission of shares of (late) K.Shanmugasundara Nadar (KSN) in the name of his legal heirs;</i> <i>ii)to direct the Company to conduct general meetings of the Company and file statutory returns;</i> <i>iii)to reconstitute the board of directors of the Company;</i> <i>iv)to appoint an Administrator to manage the affairs of the Company;</i> <i>v)to set aside the sale of the Company's properties effected by the respondents 2 to 7;</i> <i>vi)to surcharge the</i>
<i>C.M.A.No.403 of 2007</i>	<i>Against the order dated 4th December 2006 of the Company Law Board, Additional Principal Bench at Chennai passed in</i>	



OSA.Nos.430 of 2001 etc batch

	Company Petition No.16 of 2003.	respondents 2 to 7 on account of the losses suffered by the Company; and vii)to direct the Central Government to investigate into the affairs of the Company and take appropriate action for statutory violations and diversion of funds of the Company.
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7. Mrs.Mangala Vijayalakshmi has filed O.S.A.Nos.430 and 431 of 2001 challenging order dated 19.10.2001 made in C.P.No.274 of 1998 by the company division of this Court as well as C.M.A.No.403 of 2007 as against the company, her brothers, as well as the purchasers, under Section 10F of the Companies Act, 1956, which provides for appeals as against the orders of the company law board.

8. The provision states that '*Any person aggrieved by any decision or order of the Company Law Board made before the commencement of the Companies (Second Amendment) Act, 2002, may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Company Law Board to him on any question of law arising out of such order*'.

9. Though both the Civil Miscellaneous Appeal and Company Appeal are of the years 2007 and 2009, substantial questions of law have been framed only recently as follows:



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OSA.Nos.430 of 2001 etc batch

1. *Whether the sale agreements which does not contains the signature of the appellant inspite of the fact that appellant is also one of the director authorised to sign is valid in the eye of law?*

2. *Whether the title conferred by the sale deeds which came to be executed based on the fraudulent sale agreements is valid?*

10. The question that thus arise for determination are in relation to the validity or otherwise of the sales made to 36 purchasers arrayed as R11 to R29, R31 to R44, R46, R47 and R52 in the CMA.

11. The brief facts on which these matters are premised are as follows. M/s. K.S.Kasimaris Ceramique (P) Ltd., ('company') had been promoted in Chennai in 1970 by Mr.K.Shanmugasundaram Nadar along with Mr.K.S.Damodaran, his son. The business of the company related to manufacture and sale of mechanised bricks. The parties before us are siblings, the appellant in O.S.A.Nos.430 and 431 of 2001 and C.M.A.No.403 of 2007 being the sister of R2 to R5. The business of the company stopped in the year 1976 on account of shortage of coal.

12. The assets of the company comprise (i) a Rice Mill at No.216, L.R.Road, Arumuganeri Village, Tiruchendur Taluk, V.O.C. District in an extent of 1 acre of land (ii) an extent of about 25 acres of land in the same village as aforesaid, with palmirah trees grove, and (iii) 13.77 acres of land at Maduravoyal Village, Madras – 602 102 in S.Nos.127/9B, 127/10B, 127/15B, 127/21Bm 127/27B, 127/35B, 127/36B, 127/39B,



OSA.Nos.430 of 2001 etc batch

127/45B, 127/46-A, 127/16, 127/22, 127/23, 127/28, 127/29, 127/30 and 127/37 in Saidapet Taluk, now falling within the limits of Thiruvallur Taluk ('property'/'property in question').

13. The above assets had been sold by the company in favour of third parties who are all respondents (R11 to R29, R31 to R44, R46, R47 and R52) in CMA.No.403 of 2007, and the sale of that property had been challenged before the Company Law Board. Those sales had taken place pursuant to company resolutions passed on 12.01.1996, 10.02.1996 and 27.11.1996.

14. While Mr.Kodaiarasu, who appears for the company and Mr.K.S.Anantharaman, Managing Director of the Company, would submit that the sales have been duly executed, Mrs.Mangala Vijayalakshmi and Mr.Damodaran do not accede to the factum of sale.

15. On the demise of Mr.K.Shanmugasundaram Nadar on 24.07.1995, the first meeting of the Board was held on 12.01.1996 and Mrs.Mangala Vijayalakshmi, Mr.Anantharaman and Mr.Johnson were present in the meeting. Notice was sent to Mr.Damodaran and the same has been made part of the paper compilation placed before us. He did not, however, choose to attend the meeting. It was in this meeting that, among various other resolutions, it was also resolved to dispose the 13.77 acres of vacant lands at Maduravoyal at a suitable price and on viable



terms.

16. The entire controversy revolves around the interpretation of three versions of the Minutes of the meeting, and one draft version of the same. The first version of the minutes dated 12.01.1996 stated that Mr.Anantharaman, who was proposed for the post of Managing Director and had been declared so elected, was authorized to negotiate with probable buyers and submit proposals to the Board for its consideration. The relevant portion of these Minutes, herein after referred to as Minutes I, is extracted below:

*MINUTES OF MEETING HELD ON 12/01/96 AT 10.30 HRS.
AT "ANANTHA BHAVANAM", ARUMUGANERI, V.O.C.
DISTRICT.*

*1).Smt.C.Mangalavijayalakshmi -- DIRECTOR,
2).Sri.K.S.ANANTHA RAMAN -- DIRECTOR, and
3).Sri.S.JOHNSON -- DIRECTOR.*

DISCUSSIONS AND RESOLUTIONS

The agenda circulated to all the DIRECTORS was read out and taken up for discussions and passing of resolutions.

The meeting commenced with a minutes of silence as a mark of respect to the memory of Sri.K.SHANMUGASUNDARA NADAR, our beloved CHAIRMAN who passed away on 24/07/95.

Smt.C.MANGALA VIJAYALAKSHMI, the senior most DIRECTOR present was requested to conduct the proceedings of this first meeting after the demise of Sri.K.SHANMUGASUNDARA NADAR, our beloved CHAIRMAN.



The agenda for this meeting was discussed and the following RESOLUTIONS passed for recording in the books of the Company.

.....
4). *RESOLVED unanimously to invite Mrs.PAULTHAI SHANMUGASUNDARAM to join the BOARD OF DIRECTORS in place of Sri. K.SHANMUGASUNDARA NADAR.*

.....
7). *For the post of MANAGING DIRECTOR the name of Sri.K.S.ANANTHA RAMAN was proposed by Smt.C.MANGALAVIJAYALAKSHMI and seconded by Sri.S.JOHNSON, there being no other proposals Sri.K.S.ANANTHA RAMAN was declared elected as the new MANAGING DIRECTOR with immediate effect and that he would hold office until further orders of the Board. Sri.K.S.ANANTHA RAMAN, the interested Director, did not participate in the resolution. It was decided to pass a resolution to this effect.*

.....
17). *RESOLVED after long deliberations to dispose of the excess 13.77 acres of vacant lands of the Company at Maduravoyal, at a suitable price on viable terms on the lines as negotiated earlier by our beloved CHAIRMAN, Sri K.SHANMUGASUNDARA NADAR.*

18). *RESOLVED to authorise the MANAGING DIRECTOR to negotiate with probable buyers and submit a proposal to the Board for its perusal and approval prior to conclusion of the deal. Also, requested to submit the proposals within a month to enable the Board to finalise the deal before the end of this financial year.*

.....
With no other subject for discussions the meeting was concluded with thanks to all DIRECTORS present and the CHAIR.

*Smt.C.MANGALAVIJAYALAKSHMI
CHAIRPERSON*



OSA.Nos.430 of 2001 etc batch

K.S. KASIMARIS CERAMIQUE PVT. LTD.

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17. In the second version of the Minutes, referred to as Minutes II, the subject for discussion related to the finalization of agreements for sale of the company assets. The resolution at item No.3 authorizes the chairperson (Mrs.Paulthai Shanmugasundaram), Managing Director (Mr.K.S.Anantharaman) and Director (Mrs.Mangala Vijayalakshmi) to be signatories to the sale agreement. Those Minutes are signed by the chairperson Mrs.Paulthai Shanmugasundaram, and the relevant portions are as below:

*'MINUTES OF MEETING HELD ON 10/02/96 AT 11.00 HRS,
AT "KASIMARI BHAVANAM", 50, PULLA AVENUE,
SHENOY NAGAR, MADRAS.*

*1). Smt.PAULTHAI SHANMUGASUNDARAM --
CHAIRPERSON,*

*2). Sri.K.S. ANANTHA RAMAN --MANAGING
DIRECTOR, and*

*3). Smt. C. MANGALAVIJAYALAKSHMI -- DIRECTOR,
DISCUSSIONS AND RESOLUTIONS :*

*The agenda circulated to all the DIRECTORS was read out
and taken up for discussions and passing of resolutions.*

*The meeting commenced with a welcome to Mrs. PAULTHAI
SHANMUGASUNDARAM on her accepting our invitation to
join the Board of Directors as CHAIRPERSON.*

*Smt. PAULTHAI SHANMUGASUNDARAM, was requested to
conduct the proceedings of this meeting.*

*The agenda for this meeting was discussed and the following
RESOLUTIONS passed for recording in the books of the
Company.*

*1). RESOLVED to record the acceptance of Smt.
PAULTHAI SHANMUGASUNDARAM and her appointment*



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OSA.Nos.430 of 2001 etc batch

as Director and CHAIRPERSON of this Board of Directors
in place of Sri. K.SHANMUGASUNDARANADAR.

2). RESOLVED to authorities the MANAGING DIRECTOR to finalise agreements for sale of 13.77 acres of lands belonging to the Company at Maduravoyal to prospective Purchasers and to do all acts necessary to complete the sales transactions. It was also resolved to engage contractors at suitable rates to be finalised by the MANAGING DIRECTOR to clear the lands of all shrubs, complete fencing and mark lay-outs.

3). RESOLVED to authorise the following as Joint authorised Signatories to the Sale Agreement:

1). Smt.PAULTHAI SHANMUGASUNDARAM --
CHAIRPERSON,

2). Sri.K.S. ANANTHA RAMAN --
MANAGING DIRECTOR, and

3). Smt. C. MANGALAVIJAYALAKSHMI --
DIRECTOR,

4). RESOLVED to authorise Sri. K.S. ANANTHA RAMAN, Managing Director; to discuss with INDIAN OVERSEAS BANK, Sowcarpet Branch and ascertain the liability as well as to negotiate any reduction in the interests charged.

5). RESOLVED to authorise Sri. K.S. ANANTHA RAMAN, Managing Director to pay INDIAN OVERSEAS BANK, Sowcarpet Branch, the dues under the liability.

6). RESOLVED to authorise Sri. K.S. ANANTHA RAMAN, Managing Director to receive the ORIGINAL DOCUMENTS of the said lands of the Company now pledged with INDIAN OVERSEAS BANK, Sowcarpet Branch.

7). RESOLVED to authorise Sri. K.S. ANANTHA RAMAN, Managing Director; to discuss with our lawyers and TNHB authorities to settle the compensation cases, now pending in the High Court of Madras out of court and pave way for receiving the compensation from TNHB.

8). RESOLVED to authorise Sri. K.S. ANANTHA RAMAN, Managing Director; to initiate or defend legal proceedings and as well engage lawyers and sign pleadings, vakalats, affidavits



OSA.Nos.430 of 2001 etc batch

etc., on behalf of the Company.

9). *RESOLVED to authorise the Managing Director to appoint a practising Company Secretary to regularise the Books of the Company and arrange to file returns before the Register of Companies, and also further resolved to re-appoint M/s.D.RANGASWAMY & CO, 683, ANNA SALAI, MADRAS – 600 006, as statutory Auditors of the Company. With no other subject the meeting concluded with a vote of thanks to the CHAIR.*

*Smt.PAULTHAI SHANMUGASUNDARAM
CHAIRPERSON
K.S. KASIMARIS CERAMIQUE PVT. LTD.*

18. Minutes III, also of the same date, contains a different resolution stipulating that the company assets were to be sold to one Mrs.Jayaraj. The sale agreement was to be executed by the same three persons as in Minutes II. Minutes III is extracted below:

*'MINUTES OF MEETING HELD ON 10/02/96 AT 11.00 HRS,
AT "KASIMARI BHAVANAM", 50, PULLA AVENUE,
SHENOY NAGAR, MADRAS.*

*1). Smt.PAULTHAI SHANMUGASUNDARAM --
CHAIRPERSON,
2). Sri.K.S. ANANTHA RAMAN --MANAGING
DIRECTOR, and
3). Smt. C. MANGALAVIJAYALAKSHMI --
DIRECTOR,*

DISCUSSIONS AND RESOLUTIONS :

The agenda circulated to all the DIRECTORS was read out and taken up for discussions and passing of resolutions.

The meeting commenced with a welcome to Mrs. PAULTHAI SHANMUGASUNDARAM on her accepting our invitation to



join the Board of Directors as CHAIRPERSON.

Smt. PAULTHAI SHANMUGASUNDARAM, was requested to conduct the proceedings of this meeting.

The agenda for this meeting was discussed and the following RESOLUTIONS passed for recording in the books of the Company.

1). RESOLVED to record the acceptance of Smt. PAULTHAI SHANMUGASUNDARAM and her appointment as Director and CHAIRPERSON of this Board of Directors in place of Sri. K.SHANMUGASUNDARANADAR.

2). RESOLVED to sell the vacant lands of 13.77 acres belonging to the Company at Maduravoyal. Among the proposals put forward by the Managing Director it was finalised to sell the lands to Mrs.JAYARAJ on whom it was finalised by our late Chairman Sri.K.SHANMUGASUNDARA NADAR, the details of the sale to be elaborated in the sale agreement.

3). RESOLVED to authorise the following as Joint authorised Signatories to the Sale Agreement:

1). Smt.PAULTHAI SHANMUGASUNDARAM -- CHAIRPERSON,

2). Sri.K.S. ANANTHA RAMAN --MANAGING DIRECTOR, and

3). Smt. C. MANGALAVIJAYALAKSHMI -- DIRECTOR,

4). RESOLVED to authorise Sri. K.S. ANANTHA RAMAN, Managing Director, to discuss with INDIAN OVERSEAS BANK, Sowcarpet Branch and ascertain the liability as well as to negotiate any reduction in the interests charged.

5). RESOLVED to authorise Sri. K.S.ANANTHA RAMAN, Managing Director to pay INDIAN OVERSEAS BANK, Sowcarpet Branch, the dues under the liability.

6). RESOLVED to authorise Sri. K.S. ANANTHA RAMAN, Managing Director to receive the ORIGINAL DOCUMENTS of the said lands of the Company now pledged with INDIAN OVERSEAS BANK,



OSA.Nos.430 of 2001 etc batch

Sowcarpet Branch.

7). *RESOLVED to authorise Sri. K.S.ANANTHA RAMAN, Managing Director, to discuss with our lawyers and TNHB authorities to settle the compensation cases, now pending in the High Court of Madras, out of court and pave way for receiving the compensation from TNHB.*

With no other subject the meeting concluded with a vote of thanks to the CHAIR.

*Smt.PAULTHAI SHANMUGASUNDARAM
CHAIRPERSON
K.S. KASIMARIS CERAMIQUE PVT. LTD.*

19. O.S.No.651 of 2001 was filed by Valliammal (Mrs.Jayaraj) before the District Munsif Court, Poonamallee seeking specific performance of the sale as resolved above. However, that suit was abandoned. Since Minutes III is specific to Mrs.Jayaraj and the litigation initiated by her husband for specific performance was abandoned, there is no further necessity for us to refer to Minutes III. Hence, Minutes III is disavowed as being unreliable and of no consequence.

20. A further twist in the tale is a letter written by Mr.Anantharaman on 31.05.1997 to the husband of Mrs.Mangala Vijayalakshmi. The letter makes it clear that there is a re-thinking on his part as far as Minutes I is concerned, and he has re-drafted the minutes enclosing the draft along with his letter. The letter and the draft which is unsigned, are extracted below:



OSA.Nos.430 of 2001 etc batch

Marison Auto Products

31/05/97

My dear ****(not legible),
Hope this letter finds you, sister and Nithya in the best of health and wish to hear the same. Everyone at home is fine.

I am leaving to Arumuganar on 01/06/97 to attend Temple festival along with Renu and will be back on 05/06/97.

As on date official order copy of the appeal filed by KDD is not yet ready. In the meanwhile KSM has obtained a stay on 27/05/97 (copy enclosed).

We have to get this stay order quashed as soon the court reopens after vacation. At that time we may have to submit our Agreements. In this connection, I have enclosed herewith the redrafted minutes dt. 10/2/96 along with letter to be issued by both sides for your perusal. Kindly go through the same and mark any corrections if required and return the same along with the corrections required in the Sale Agreement. Your presence may be required on 7/6/97 in the office of Mr.Dattar to finalise everything with regard to KSK.

How has Nithya fared in her exams. When is she joining college again?

Nothing more to add,
With best wishes and regards,
Yours
Sd/-
K.S.Anantharaman

'MINUTES of the MEETING of the Board of Directors of K.S.KASIMARIS CERAMIQUE PVT. LTD., HELD ON 10/02/96 AT 11.00 HRS, AT "KASIMARI BHAVANAM", 50, PULLA AVENUE, SHENOY NAGAR, MADRAS.

PRESENT:

- 1). Smt.PAULTHAI SHANMUGASUNDARAM --
CHAIRPERSON,
- 2). Sri.K.S. ANANTHA RAMAN --
MANAGING DIRECTOR, and
- 3). Smt. C. MANGALAVIJAYALAKSHMI --
DIRECTOR,



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OSA.Nos.430 of 2001 etc batch

DISCUSSIONS AND RESOLUTIONS :

Leave of absence : Leave of absence was granted to Sri.S.JOHNSON Absent : Sri K.S.DAMODARAN, Director was absent.

The meeting commenced with a welcome to Mrs. PAULTHAI SHANMUGASUNDARAM on her accepting our invitation to join the Board of Directors as CHAIRPERSON.

Thereafter the Managing Director requested the Chairperson to take the Chair and conduct the proceedings of this meeting.

The items as per the Agenda were taken up and discussed in detail and the following decisions were taken :

- 1). RESOLVED to record the acceptance of Smt. PAULTHAI SHANMUGASUNDARAM and her appointment as Director and CHAIRPERSON of this Board of Directors in place of Sri. K.SHANMUGASUNDARANADAR.*
- 2). RESOLVED to authorise the MANAGING DIRECTOR to finalise agreements for sale of 13.77 acres of lands belonging to the Company at Maduravoyal to the party of 25 persons who have offered to purchase the lands as per the terms contained in the letter dated and to do all acts necessary to complete the Sale Agreements. It was also resolved to authorise the Managing Director to supervise the contractors engaged by the Purchasers at their costs to clear the lands of all shrubs and mark lay-outs.*
- 3). RESOLVED that there shall be three Directors joining as Signatories on behalf of the Company to the Sale Agreements and the Sale Deeds and affix the Common Seal to such documents.*
- 4). RESOLVED to authorise Sri. K.S. ANANTHA RAMAN, Managing Director, to discuss with INDIAN OVERSEAS BANK, Sowcarpet Branch and ascertain the liability as well as to negotiate any reduction in the interests charged.*
- 5). RESOLVED to authorise Sri. K.S.ANANTHA RAMAN, Managing Director to pay INDIAN*



OSA.Nos.430 of 2001 etc batch

- OVERSEAS BANK, Sowcarpet Branch, the dues under the liability.*
- 6). *RESOLVED to authorise Sri. K.S. ANANTHA RAMAN, Managing Director to receive the ORIGINAL DOCUMENTS of the said lands of the Company now pledged with INDIAN OVERSEAS BANK, Sowcarpet Branch.*
- 7). *RESOLVED to authorise Sri. K.S.ANANTHA RAMAN, Managing Director, to discuss with our lawyers and TNHB authorities to settle the compensation cases, now pending in the High Court of Madras, out of court and pave way for receiving the compensation from TNHB.*
- 8). *RESOLVED to authorise Sri. K.S. ANANTHA RAMAN, Managing Director, to initiate or defend legal proceedings and as well engage lawyers and sign pleadings, vakalats, affidavits etc., on behalf of the Company.*
- 9). *The Managing Director informed the Board that it is in the interest of the Company to have a Company Law Consultant for the purpose of maintaining and to file forms and returns with the Registrar of Companies according to the provisions of the Companies Act, 1936.*
After a brief discussion it was:
RESOLVED that the Managing Director be and is authorised to hire the services of a qualified Company Secretary as a Company law consultant as and when required and pay his charges then and there.

As there was no other matter for discussions the meeting concluded with a vote of thanks to the CHAIR.

Smt.PAULTHAI SHANMUGASUNDARAM
CHAIRPERSON
K.S. KASIMARIS CERAMIQUE PVT. LTD.

21. We have heard the parties in detail in respect of the above Minutes. The Company Law Board has also looked into the same and



OSA.Nos.430 of 2001 etc batch

has returned a finding that it is Minutes II that constitutes valid and authenticated Minutes, as far as the company is concerned. In fact, Mr.K.S.Anantharaman who has written the letter extracted above, was very much part of the Coram of the Board that passed Minutes II.

22. While Mrs.Mangala Vijayalakshmi has argued that she was never part of that meeting, Minutes II have been signed/attested by her as well, though she disputes her signature before us. As rightly pointed by the other parties, there has been no dispute raised on this account at any point in time in the proceedings, and hence, are not inclined to consider this submission at this distance of time, merely on the strength of her statement now.

23. The sale agreements executed in favour of the 36 purchasers as well as the sale deeds have been produced before us. We clarify at this juncture that the scope of the present litigation before us would thus only relate to the 36 purchasers who hold sale deeds executed by the company.

24. There are other parties who claim to hold sale agreements executed in their favour with which we are not concerned. In fact, the subject matter of the proceedings before the Company Law Board relates only to the sale deeds with the 36 purchasers before us and categorical findings of the fact have been rendered by the Company Law Board in order dated 04.12.2006, in their favour. In our considered view, these



finding of fact have not been disturbed by the appellant before us and the

findings are extracted below:

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The sale of property in Maduravoyal belonging to the Company, in favour of the purchaser-respondents is under challenge. It is observed that certain agreement holders sought to implead themselves to the present company petition by taking out appropriate applications, who are found to be necessary parties, in view of the interest in the disputed property and therefore, they have been impleaded as the respondents 52 to 54. A close scrutiny of voluminous records produced before the Bench reveals that as many as 35 sale deeds have been executed and registered in the name of the respondents 11 to 54 save the respondents 16, 30, 34, 39, 44, 45 and 48 to 51, 53 & 54, during the period between 07.11.2001 and 06.02.2002. However, it appears that no sale deeds have been so far obtained by the respondents 16, 30, 34, 39, 44, 45 and 48 to 51, 53 & 54. While questioning these sale transactions, it was argued that the requisite legal formalities for sale of the property were not duly satisfied and that there was no need to sell the whole of the property and that too at a meagre price. The Company incorporated in January 1970 for manufacture and sale of mechanised bricks stopped all its activities since the year 1976, on account of mainly shortage of coal supply. The Company was indebted to TIIC and other agencies towards electricity consumption dues, property taxes, sales tax dues etc. The board of directors at the meeting held on 10.08.1988 authorised the Chairman (KSN) to arrange for an amount of Rs.81 lakhs to settle the dues of TIIC. At the board meeting held on 12.10.1988, the directors resolved to dispose the entire land and building including machinery in one or more lots and authorised the Chairman (KSN) to call for prospective buyers, negotiate and finalise any deal found to be reasonable and suitable. Similarly, the Chairman (KSN) was authorised at the board meeting held on 16.12.1988 to negotiate and conclude the sale with one S.X. Francis. The Company had ultimately cleared the dues of TIIC in instalments by September 1999 from and out of the sale proceeds of machinery and equipments, financial assistance of Rs.33.25 lakh obtained from Canara



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OSA.Nos.430 of 2001 etc batch

Bank etc. Thus, there was acute necessity for sale of the company's property even way back in October 1988.

The Maduravoyal property of the Company has been sold pursuant to the disputed resolutions passed at the board meetings held on 12.01.1996, 10.02.1996 and 27.11.1996. At the board meeting held on 12.01.1996, the board of directors - (a) elected the fourth respondent as Chairperson; (b) appointed the third respondent as managing director; (c) approved the sale of 13.77 acres of vacant land of the Company at Maduravoyal; and (d) authorised the managing director to negotiate with probable buyers and submit a proposal to the board for its approval, before the end of the financial year. The attendance register shows that the respondents 3 & 6 and one S. Johnson attended the board meeting held on 12.01.1996. It is clear from the communication dated 06.01.1996 of the second respondent addressed to the third respondent that the second respondent was in receipt of the notice dated 30.12.1995 convening the board meeting held on 12.01.1996, but he did not choose to attend the board meeting. The second respondent in the course of his oral submissions reported that he did not attend the board meeting on 12.01.1996 in view of the fact that the third respondent had no authority to convene any board meeting and that the board meeting of 12.01.1996 is illegal. The managing director was authorised to finalise the agreements for sale of the Maduravoyal land in favour of prospective purchasers and to do all acts necessary to complete the sale transactions and further the respondents 2, 3 & 6 were authorised to sign jointly the sale agreements at the board meeting held on 10.02.1996, wherein the respondents 2, 3 & 6 participated, as borne out by the attendance register on record. The second respondent in his counter statement filed in C.P.No.60 of 1996 before the High Court of Madras categorically admitted that the third respondent herein had without any authority issued notices dated 30.12.1995 and 03.12.1996 convening the board meetings on 12.01.1996 and 10.02.1996 respectively. The sixth respondent in her affidavit filed in August 1998 in C.P.No.274 of 1998 affirmed that the notice of board meeting held on 12.01.1996 was given to all directors on 30.12.1995 and further in her counter affidavit filed in contempt application (C.A.No.199 of 1997 in C.P.No.60 of 1996) on the file of the High Court of Judicature at Madras



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OSA.Nos.430 of 2001 etc batch

categorically affirmed that (a) the board of directors at the meeting held on 12.01.1996 passed resolutions to dispose of excess lands of the Company in Maduravoyal and authorised the third respondent herein to negotiate with probable buyers; and (b) at the subsequent board meeting held on 10.02.1996, the third respondent herein was authorised to receive the original documents from Indian Overseas Bank. At the board meeting held on 27.11.1999 the board of directors approved the agreements for sale with 25 proposed purchasers and further resolved that the sale agreements and sale deeds shall be executed jointly by the chairperson, managing director and any other director, but not by individuals. This board meeting was attended by the respondents 2 & 4 and S. Johnson. The second respondent by a telegram sent in November 1999 before the board meeting held on 27.11.1999 advised the third respondent that the board meeting convened by him is illegal. This goes to show that the second respondent was served with the notice of board meeting held on 27.11.1999. The sixth respondent had received the notice of board meeting held on 27.11.1999, only on the date of board meeting and therefore while informing the third respondent by her letter dated 29.11.1999 that she could not attend the board meeting on 27.11.1999, she asked for a copy of the minutes of the board meeting held on 27.11.1999. It is not the case of the sixth respondent that the Company failed to comply with her request. At this stage it is not open to her, after several years, to challenge the resolutions passed at the board meeting held on 27.11.1999 on the ground that the board meeting was convened in contravention of article 46, contemplating seven days notice for any board. Therefore, the contesting respondents can neither plead ignorance nor question the validity of those board meetings at this belated stage and all the board resolutions thereon are binding on them. It may further be observed that the purported fabrication of the board minutes dated 10.02.1996 will not have any adverse impact on the validity of the sale deeds, more so when valid title to the property could be conveyed on the strength of the resolutions passed at the board meetings held on 10.02.1996 and 27.11.1999, in favour of the purchasers.

25. As far as O.S.A.Nos.430 and 431 of 2001 are concerned, the



OSA.Nos.430 of 2001 etc batch

challenge is to orders passed by the Company Court and the main contention of the appellant are is that the company should be wound up and a provisional liquidator appointed. The Appellant urges that the substratum of the company has been wiped out in 1976 and there have been no activities thereafter. They also rely on reports of the Company Secretaries to the effect that there have been no statutory compliances for the last 30 years.

26. Hence, and according to them the mere availability of substantial funds and assets would not justify the existence of the company, particularly in light of the admitted position that there has been no business carried on and there is none envisaged in future as well. They have not relied on any decisions in the course of the hearing.

27. Mr.P.H.Arvind Pandian, learned Senior Counsel appearing for Mr.K.Shankar, learned counsel on record for R17 and R18 in C.M.A.No.403 of 2007 would defend the orders passed by the Company Court, relying on the following judgments:

1.*Anuragha Poultries and Breeders P.Ltd. and another V. Pamavathi and others*¹

2.*Jagan Singh (Dead) through LRs. V. Dhanwanti and Another*²

3.*M.Moorthy V. Drivers and Conductors Bus Service Private Ltd, and 6 others*³

4.*MRF Limited V. Manohar Parrikar and others*⁴

¹ (2022) 230 Comp Cas 207 (Mad)

² (2012) 2 Supreme Court Cases 628

³ 1990-2-L.W.123

⁴ (2010)11 SCC 374



OSA.Nos.430 of 2001 etc batch

5. *Prabhu Dayal Chitlangia and Anr. V. Trinity Combine Associates Pvt.Ltd.*,⁵

6. *Dale & Carrington Invt.(P)Ltd.and another V. P.K.Prathapan and others*⁶

7. *V.S.Krishnan and others V. Westfort Hi-Tech Hospital Ltd and others*⁷

8. *M/s.Micromeritics Engineers Pvt. Ltd. And four others V. S.Munusamy and another*⁸

9. *D.Ramkishore and others V. Vijayawada Share Brokers Ltd. And others*⁹

10. *In Re Bengal Luxmi Cotton Mills Ltd.* ¹⁰

11. *Shanti Prasad Jain V. Kalinga Tubers Ltd*¹¹

12. *Shanta Genevieve Pommerat and another V. Sakal Papers Private Limited and others*¹²

13. *Hanuman Prasad Bagri and others V.Bagress Cereals Pvt.Ltd.and others*¹³

14. *The official Receiver of Ramanathapuram at Madura representing the estate of the insolvent P.L.S.L.P.Palaniappa Chettiar and P.L.M.L.Chellappa Chettiar V. P.L.S.L.Chellappa Chettiar*¹⁴

15. *C.K.Siva Sankara Panicker V. Kerala Financial corporation and others*¹⁵

28. Having heard learned counsel, we are of the view that there is no merit in any of these appeals. In *V.S.Krishnan and others*¹⁶, the Supreme Court has settled the position that the jurisdiction of the High Court qua an appeal under Section 10F is only in regard to a question of law and the Company Law Board is the final fact finding authority.

⁵ (2000)99COMPCAS21(CLB)

⁶ (2005) 1 SCC 212

⁷ (2008) 3 Supreme Court Cases 363

⁸ 2002 (3) CTC 661

⁹ (2008)144Comp Cas 326 (AP)

¹⁰ (1965)35CC187

¹¹ (1965)35CC351

¹² (1983)1Supreme Court Cases 295

¹³ (2001)4Supreme Court Cases 420

¹⁴ AIR (38)1951 Madras 935

¹⁵ 1980 SCC OnLine Ker 295

¹⁶ Foot Note Supra (7)



Paragraph 16, extracted below, makes this position clear:

16. It is clear that Section 10F permits an appeal to the High Court from an order of the Company Law Board only on a question of law i.e., the Company Law Board is the final authority on facts unless such findings are perverse based on no evidence or are otherwise arbitrary. Therefore, the jurisdiction of the appellate Court under Section 10F is restricted to the question as to whether on the facts as noticed by the Company Law Board and has placed before it, an inference could reasonably be arrived at that such conduct was against probity and good conduct or was mala fide or for a collateral purpose or was burdensome, harsh or wrongful. The only other basis on which the appellate Court would interfere under Section 10F was if such conclusion was (a) against law or (b) arose from consideration of irrelevant material or (c) omission to construe relevant materials.

29. The questions admitted in the appeal relate only to the sale deeds said to have been executed by the company. It is also relevant to note that none of the Resolutions, on the basis of which, the sale deeds have been executed, have been challenged before any authority till date.

30. We have noted the discussions, findings and conclusions in the orders of the Company law Board and Company Court impugned before us. The findings have been rendered after an exhaustive analysis. A Chartered Accountant was appointed and his assistance sought. In such circumstances there is no error or perversity in the impugned orders.

31. The ratio of the decision in V.S.Krishnan's case has been followed and applied by the Supreme Court in *Purnima Manthena and*



OSA.Nos.430 of 2001 etc batch

Anr. *V. Dr.Renuka Datla and Ors*¹⁷. After considering the ratio in *V.S.*

Krishnan and Others etc.,¹⁸, *Wander Ltd. and Another vs. Antox India P.*

*Ltd.*¹⁹, *The Commissioner of Income Tax, Bombay vs. The Scindia Steam*

*Navigation Co. Ltd.*²⁰ and *Dale & Carrington Invt. (P) Ltd.*,²¹ the Court

reiterates in *Purnima Manthena*²², as follows:

46. Section 10F of the Act engrafts the requirement of the existence of a question of law arising from the decision of the CLB as an essential pre-condition for the maintainability of an appeal thereunder. While the language applied therein evinces that all orders, whether final or interlocutory, can be the subject-matter of appeal, if it occasions a question of law, in our comprehension, the Section per se defines the perimeters of inquisition by the appellate forum conditioned by the type of the order under scrutiny. The nature and purport of the order i.e., interlocutory or final, would thus logically present varying canvases to traverse and analyse. These too would define the limits of adjudication qua the appellate forum. Whereas in an appeal under Section 10F from an order granting or refusing interim relief, being essentially in the exercise of judicial discretion and based on equity is an appeal on principle and no interference is merited unless the same suffers from the vice of perversity and arbitrariness, such constrictions may not necessarily regulate and/or restrict the domain of examination in a regular appeal on facts and law. Section 10F, thus, statutorily demarcates the contours of the jurisdictional exercise by an appellate forum depending on the nature of the order impugned i.e. interlocutory or final and both cannot be equated, lest the pending proceeding before the lower forum, if the order impugned is purely of interlocutory nature, and does not decide any issue on a consideration of the rival

¹⁷ Civil Appeal No.8275 of 2015 dated 06.10.2015

¹⁸ Foot Note Supra (7)

¹⁹ 1990 (suppl.) SCC 727

²⁰ 1962(1) SCR 788

²¹ Foot Note Supra (6)

²² Foot Note Supra (17)



assertions on merits, stands aborted and is rendered superfluous for all intents and purposes.

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32. Then again, in *M/s.Micromeritics Engineers Pvt. Ltd*²³, a learned single Judge of this Court reiterated the same proposition in the following terms:

*10. I have carefully considered the submissions of the learned counsel for the parties. It is necessary to set out here the jurisdiction of this Court in appeal under section 10F of the Act. This Court in an appeal under Section 10F filed against the order of the Company Law Board is empowered to decide any question of law arising out of the order of the Company Law Board and the terms of the section clearly show that on the question of fact, this Court is not entitled to reappraise the evidence let in before the Company Law Board. The **Delhi High Court in Mohd. Jafar v. Nahar Industrial Enterprises Ltd.**, 1997 (4) Comp.LJ 201, following the decision of the Supreme Court in the case of **C.I.T. v Scindia Steam Navigation Co. Ltd.**, 1961 (42) ITR 589, held that an appeal lies before the High Court from out of the decision of the Company Law Board on any question of law arising out of the order passed by the Company Law Board and when a question of law was neither raised before the Company Law Board, nor considered by it, it would not be a question arising out of its order notwithstanding that it might arise on the findings given by it. This Court in **Malleswara Finance & Investments Co. V C.L.B.**, 82 Comp. Cases 836 has held that an appeal under section 10F before this Court can be entertained on a question of law that arises out of that order and on the question of fact, the appeal does not lie. This Court also held that the question whether the increase in share capital is proper or not is a pure question of fact and no appeal is maintainable against the decision arising out of the question. Therefore it is clear that the findings rendered by the Company Law Board on the increase in share capital and the allotment of shares to various relatives of the appellant-2 and inclusion of appellants 4 and 5 as directors of the company*

²³ Foot Note Supra (8)



OSA.Nos.430 of 2001 etc batch

and removing the respondents from the office of the Directors of the company and reconstitution of the company's Board are all questions of fact as the findings have been rendered on materials on record and they are supported by evidence. Though the appeal is liable to be rejected on the very short ground, however, considering the elaborate arguments advanced by Mr.T.V.Ramanujam, learned senior counsel for the appellants, this Court is inclined to go into the merits of the submissions.

33. The decision of the Andhra Pradesh High Court in *D.Ramkishore and others*²⁴, too is apposite, and applicable to this case and the relevant portion is extracted below:

Section 10F of the Companies Act : Its scope :

Under section 10F of the Companies Act, 1956, any person aggrieved by any decision or order of the Company Law Board may file an appeal to the High Court on any question of law arising out of such order. It is only on a question of law, and not of fact, that an appeal would lie against the order of the Company Law Board to the High Court. There is no jurisdiction to entertain an appeal on grounds of erroneous findings of fact, however gross the error may seem to be, for if the question to be decided is one of fact it does not involve an issue of law. (Deity Pattabhiramaswamy v. S. Hany-mayya, AIR 1959 SC 57). It is only an error of law which can be corrected by the High Court in exercise of its jurisdiction under section 10F of the Companies Act. If the finding recorded by the Company Law Board is one of law or of mixed law and fact, the High Court can certainly examine its correctness, but if it is purely one of fact, the jurisdiction of the High Court would be barred. (Mattulal v. Radhe Lal, AIR 1974 SC 1596). A finding on a question of fact is open to attack as erroneous in law only if it is not supported by any evidence, or if it is unreasonable and perverse, but where there is evidence to consider, the decision of the Company Law Board is final even though the High Court might not, on

²⁴ Foot Note Supra (9)
35/51



OSA.Nos.430 of 2001 etc batch

the materials, have come to the same conclusion if it had the power to substitute its own judgment. (Sree Meenakshi Mills Ltd. v. CIT [1957] 31 ITR 28 (SC) ; AIR 1957 SC 49). In between the domains occupied respectively by questions of fact and of law, there is a large area in which both these questions run into each other, forming enclaves within each other. The questions that arise for determination in that area are known as mixed questions of law and fact. These questions involve first the ascertainment of facts on the evidence adduced and then a determination of the rights of the parties on an application of the appropriate principles of law to the facts ascertained. The ultimate finding on the issue must, therefore, be an inference to be drawn from the facts found, on the application of the proper principles of law, and in such cases an inference from facts is a question of law. In this respect, mixed questions of law and fact differ from pure questions of fact in which the final determination, equally with the finding or ascertainment of basic facts, does not involve the application of any principle of law. The proposition that an inference from facts is one of law will be correct in its application to mixed questions of law and fact but not to pure questions of fact. When the finding is one of fact, the fact that it is itself in inference from other basic facts will not alter its character as one of fact. (Sree Meenakshi Mills Ltd. v. CIT (1957) 31 ITR 28 (SC) ; AIR 1957 SC 49).

34. Yet another legal issue that has been raised in the appeals is as to the juxtaposition of, and interplay between Sections 397 and 398 on the one hand, and the provisions relating to winding up of the company, on the other. Sections 397 and 398 of the erstwhile Companies Act enabled the minority shareholders to apply to the Court for relief in cases of oppression and mismanagement.

35. One of the consequences, if the Court believes that the allegation of oppression and mismanagement under Sections 397 and 398



OSA.Nos.430 of 2001 etc batch

was justified, is to direct winding up of the company. The Court/authority must hence be convinced of the position that the oppression and mismanagement was very grave, accord reasons justifying such conviction and only thereafter pass an order of winding up.

36. On the facts and circumstances of the case, we do not believe that any such case has been made out before us. It may be true that the company has not carried on business for a long duration of time. However, that, by itself, does not justify an order of winding up, particularly when the company has assets that are yet to be disposed of in a proper and appropriate manner.

37. The Company Court has come to a categoric finding to the effect that oppression and mismanagement has not been made out and hence in light of this factual finding, which we do not find any perverse, we find no justification to order winding up.

38. The Supreme Court in *Shanti Prasad Jain*²⁵ has reiterated the position that mere loss of confidence in the management of the company by the shareholders or a pure deadlock would not justify order of winding up. The Court states that, the conduct of those in power '*must be burdensome, harsh and wrongful and mere lack of confidence between the majority shareholders and the minority shareholders would not be*

²⁵ Foot Note Supra (11)
37/51



enough unless the lack of confidence springs from oppression of a minority by a majority in the management of the company's affairs, and such oppression must involve at least an element of lack of probity or fair dealing to a member in the matter of his proprietary rights as a shareholder'.

39. The shareholders today are senior citizens and we are given to understand that they live in different portions of the same residence. Hence, the question of one oppressing the other to the detriment of the management of the company thus, in our view does not arise.

40. This conclusion also finds support from the judgment of the Supreme Court in *Hanuman Prasad Bagri*²⁶, where the Court holds as follows:

3. ... In order to be successful on this ground, the petitioners have to make out a case for winding up of the Company on just and equitable grounds. If the facts fall short of the case set out for winding up on just and equitable grounds no relief can be granted to the petitioners. On the other hand the party resisting the winding up can demonstrate that there are neither just nor equitable grounds for winding up and an order for winding up would be unjust and unfair to them. On these tests, the Division Bench examined the matter before it.

41. They also argue that the appellant is not really a person aggrieved and rely on *Ex parte Sibebbotham*²⁷ for this purpose. According

²⁶ Foot Note Supra (13)

²⁷ (1880) 14 ch.D.458



OSA.Nos.430 of 2001 etc batch

to them, the appellant has suffered no legal grievance or wrong which would justify the present action. On this score, we do not agree as the Appellants are certainly aggrieved by the decision to accept the sales of the assets to the purchasers. It is quite another matter that we have rejected their arguments, holding adverse to them on the merits of the matter.

42. The last argument is in relation to the Indoor Management Rule. In *C.K.Siva Sankara Panicker*²⁸, the Court refers to the scheme of management of companies under the Companies Act, referring to the Rule in *Royal British Bank V. Turquand*²⁹ that came to be called the ‘*Turquand's rule*’ or ‘*indoor management rule*’. The gist of the Rule is that persons dealing with limited liability companies are not bound to enquire into the details of management of the company and will hence not be affected by irregularities of which they had no notice.

43. That rule is sought to be invoked in the present case to say that some of the siblings were unaware of the goings-on in the management of the company and should not be prejudiced by virtue of the decisions taken by others who were holding the reins of the company.

44. We do not agree, as the records make it clear that all the parties have been actively involved in the affairs of the company. Hence, the

²⁸ Foot Note Supra (15)

²⁹ (1856] 6 E & B 327



OSA.Nos.430 of 2001 etc batch

question of being unaware of what was transpiring does not arise.

Having participated in the decision making process and being privy to the affairs of the company, they would have to assume responsibility in respect of the decisions taken. What emerges clearly is that there is a dispute with regard to the sharing of the consideration that has been received by the company from the 36 purchasers. The proceedings before the Company Law Board and thereafter before this Court, have traversed nigh 30 years and the contours of the dispute remain the same throughout.

45. A Chartered Accountant had been appointed by the Company Law Board to take stock of the receipts and expenses of the company and file accounts. That does not appear to have been done and thus we do not have the benefit of the accounts that were filed by the Chartered Accountant. What we do however have are the findings of the Company Law Board itself, that we have extracted above.

46. In the interests of ensuring the integrity of the sale consideration referred to in the order of the Company Law Board, we had issued notice to the erstwhile Chartered Accountants, who we are told by Mr.Kodaiarasu, learned counsel, continues to be the Chartered Accountants even as on date. Our order dated 07.08.2025 calling upon them for explanation, is as follows:



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OSA.Nos.430 of 2001 etc batch

In compliance with order dated 23.07.2025, Mr.Kodaiarasu, learned counsel produces today an affidavit of Mr.K.S.Anantharaman and a statement containing list of purchasers, particulars of sale deeds and receipt of sale consideration. The statement is only self-serving and not the bank statements as this Court had expected. We are given to understand that the bank is not in immediate possession of the computerised records.

2. Be that as it may, the Company Law Board vide order dated 04.12.2006 in C.P.No.16 of 2003 had directed entrustment of the account books, bank pass books and statements of the company to the Auditor; viz., Mr.Narasimhan, Chartered Accountant of M/s.K.S.Jaganathan & Co. No.5, Bharathi Nagar 4th Street, North Usman Road, Chennai – 600 017. It is the aforesaid Chartered Accountant who is auditing the books of accounts of the company till date.

3. Hence, there is a direction to Mr.Narasimhan, Chartered Accountant of M/s.K.S.Jaganathan & Co. No.5, Bharathi Nagar 4th Street, North Usman Road, Chennai – 600 017 to verify the statements that are produced today, reconcile the same with the account books of the company and confirm the details therein, including the dates of receipt of sale consideration in respect of the 36 sale deeds by the company and file a report, within a period of one week from today.

4. List on 14.08.2025.

47. Mr.Narasimhan, Chartered Accountant, appears to have called

for certain particulars from the company and had received the following:

- 1. Cash book for the period from 1.12.95 to 31.12.2006*
- 2. ICICI Bank Book for the period from 10.12.2001 to 14.12.2006*
- 3. Vijaya Bank Book for the period from 21.12.2001 to 6.10.2005*
- 4. Corporation Bank Book for the period from 12.12.2001 to 20.1.07*
- 5. Vijay Bank Book Statement 2 pages*
- 6. Corporation Bank statement 4 pages*
- 7. ICICI bank Bank statements (bunch of 6)*



48. A report dated 20.08.2025 has been filed by the Chartered

Accountants, wherein under the head 'summary and findings', the total consideration as per 36 sale deeds has been mentioned. The relevant portion of the Report is extracted below:

6. Summary and findings

b. The total consideration as per 36 sale deeds has been arrived at Rs.3,22,21,440/-. Details available as per Annexure A forming part of this report.

c. The 36 sale deeds are in respect of 1006.92 cents (10.0692 acres) of land as evidenced therefrom.

d. In respect of 22 sale deeds, specific details of consideration received viz., instrument number, date, amount and drawee bank were provided by the company. Sale consideration as provided by the company matches with sale consideration as per Sale deed. [items at slr no. 1 to 24, 26, 27, 28, 29, 35 & 36 of Annexure – A]

e. In respect of 5 sale deeds, sale consideration as per sale deed matches with the consideration as stated by the company. Further details about instrument no, date etc was neither available in the sale deed nor provided by the Company. [items at slr no. 30, 31, 32, 33 & 34 of Annexure – A]

f. In respect of 1 sale deed, [item at slr no.25 of Annexure – A] sale consideration as per sale deed matches with the consideration as stated by the company. However in respect of Rs.11 lakhs being part of sale consideration, the company could not provide instrument details for receipt of the same.

g. In respect of 1 sale deed, [item at slr.no 36 of Annexure – A] sale consideration as per sale deed matches with the consideration as stated by the company. However entire sale consideration of Rs.81,600/- has been received in cash.

h. In respect of 2 sale deeds, sale consideration as per sale deed matches with the consideration as stated by the company. A portion of the consideration was recorded as having been received in cash. [items at slr no.21 & 26 of Annexure – A]

i. In respect of 5 sale deeds, sale consideration as per sale deed matches with the consideration as stated by the company. In the statement provided by the company, there was a mention



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OSA.Nos.430 of 2001 etc batch

that a portion of the consideration was adjusted against advance already provided, but details of advance received viz., instrument details were not recorded. [items at slr no. 18,19,20, 21 & 26 of Annexure – A]

j. In respect of slr no.11 of Annexure – 1, sale made to K.Kapildev and K.Devi, the sale consideration as per sale deed is Rs.9,70,560/- but as per details of receipt of sale consideration provided by the company it is Rs.6,70,560/- short by Rs.3,00,000/-. We have considered the amount of Rs.9,70,560/- as per Sale deed as the amount that should have been received as total sale consideration.

k. Your Lordships had directed us to “Reconcile the same with the account books of the company”. We had sought account books from the company but are given to understand that the company has not maintained such books and hence unable to produce the same for our verification. For this reason, we are unable to offer our comment on reconciliation status with account books.

l. Your Lordships had directed us to also “Confirm the details therein, including the dates of receipt of sale consideration.”. Since the company has neither provided us with audited account books, nor with bank statements for the relevant period, we are unable to confirm the date of receipt into the bank account of the company.

m. The sale consideration received has been tabulated bank wise between ICICI Bank, Vijaya Bank and Corporation Bank based on representation/ detail provided by Mr.Anantharaman, Managing Director of M/s. K.S.Kasimaris Ceramique Private Limited. In the absence of those bank statements we are not in a position to certify whether these monies have indeed been deposited in those bank accounts.

n. We have prepared a small reconciliation statement to reconcile the total sale consideration as per 36 sale deeds and total amount received as per statement submitted by the company to us (enclosed and forming part of this report as Annexure – B). We understand the company has submitted a similar statement before this Hon’ble High Court. Apart from item (J) listed above, there are very minor variances which are negligible and immaterial. Details about these variances have been highlighted in the last column in Annexure – A.

	Particulars	Sale	Amount	Differences-	Amount in Rs
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OSA.Nos.430 of 2001 etc batch

		<i>consideration as per sale deed Rs</i>	<i>deposited into bank –Rs.</i>	<i>Rs</i>	
	<i>Amount Deposited in to bank as per statement given by the Company</i>				3,19,20,680.00
<i>Add:</i>	<i>Amount Received as sales consideration but details of deposit into bank account not provided by the Company</i>				
	<i>Sale deed No. 1726/2002 – 1)K.Devi 2)K.Kapildev</i>	9,70,560.00	6,70,560.00	3,00,000.00	
	<i>Sale deed No.1718/2002 – G.Leelavathy</i>	2,37,760.00	2,37,000.00	760.00	3,00,760.00
<i>Less</i>	<i>Amount Deposited but not received as sale consideration</i>				
	<i>Sale consideration as per sale deed</i>				3,22,21,440.00

49. It is now clear that the consideration for the land has been received by the company, though there are some small variations here and there, in regard to the amounts. In an appeal under Section 10F, however, we are to concern ourselves with the legal issue alone. The



OSA.Nos.430 of 2001 etc batch

questions that arise for consideration are entirely premised on the factual findings rendered by the Company Law Board.

50. We have also by way of abundant caution, satisfied ourselves that the findings of the Company Law Board are based on the Chartered Accountants' report, calling for a separate report from him.

51. In light of the categoric finding to the effect that the company has received the entirety of the sale consideration and based on the discussion as above, the questions relating to the title conferred by the sale deeds on the 36 purchasers is answered in favour of the company and consequently on the 36 purchasers.

52. C.M.P.No.2007 of 2025 has been filed seeking confirmation in respect of the sale agreements stated to have been executed by the company. We have, in paragraphs 23 and 24 supra already indicated the scope of the present appeals and hence reiterate that no title would be conferred on the parties by virtue of any sale agreements apart from those in respect of which the 36 sale deeds have been executed.

53. We make it clear that the former parties are free to negotiate further with the company, if they so desire, for purchase of the property and such negotiations and documentation will be treated as fresh transactions, not drawing any strength from the agreements stated to have been executed by them and which are the subject matter of these



proceedings.

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54. Coming to the OSAs and in regard to the prayer for winding up, no doubt the company does not carry on business as on date. However, in light of the substantial asset that it still holds, and the fact that the sales executed by it to 36 purchasers have been confirmed in C.M.A.No.403 of 2007, we do not believe it appropriate to wind the company up, as necessary consequence would have to be given to this order.

55. In the Company Appeal filed, the substantial contention is a direction to respondents 2 to 4, being Mr.K.S.Anantharaman, Mrs.Paulthai Shanmugasundaram and Mr.S.Johnson to deposit the entire sale consideration collected from the non-family residents and to surrender the company asset to the company. The sale consideration, as per the order of the Company Law Board has been received by the company and the accounts have also been verified by the Chartered Accountants, both at the time of the proceedings before the Company Law Board and before us.

56. One thing is however possible. While 36 purchasers have purchased portions of the asset and paid consideration for the same, it is entirely possible that the consideration may have been received by individual directors on behalf of the company. In Company Appeal No.17



OSA.Nos.430 of 2001 etc batch

of 2009, though such allegations are made as against the individuals, there is no material whatsoever available on record in these proceedings to support those allegations. We, hence, categorically reject the same confirming the factual findings of the Company Law Board.

57. A caveat. We are given to understand that the parties are before the civil court both in testamentary as well as other litigation. Those cases will be decided independently by the respective Courts except with regard to the legal issues decided under this order. Parties are however, at liberty to raise issues with regard to the receipt of sale consideration by the individuals on behalf of the company, and agitate the same.

58. In summary, C.M.A.No.403 of 2007, O.S.A.Nos.430 and 431 of 2001, Company Appeal No.17 of 2009 and C.M.P.No.2007 of 2025 are dismissed. No costs. Connected Miscellaneous Petitions are closed.

[A.S.M., J] [N.S., J]
29.08. 2025

sl
Index:Yes
Speaking order
Neutral Citation:Yes

To

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



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OSA.Nos.430 of 2001 etc batch

DR. ANITA SUMANTH,J.
and
N. SENTHILKUMAR.,J

sl

O.S.A.Nos.430 & 431 of 2001,
Com.Appeal No.17 of 2009 and
CMA No.403 of 2007
and
CMP.Nos.9992 , 9993 & 9977 of 2025 &
CMP.Nos.8557, 8559 & 2007 of 2025

Dated: 29.08.2025



OSA.Nos.430 of 2001 etc batch

O.S.A.Nos.430 & 431 of 2001, Com.Appeal No.17 of 2009 and
CMA No.403 of 2007

And

CMP.Nos.9992 , 9993 & 9977 of 2025 & & CMP.Nos.8557, 8559 &
2007 of 2025

Dr. ANITA SUMANTH, J.

and

N.SENTHILKUMAR, J.

(Order of the Court was made by Dr. ANITA SUMANTH., J.)

The matter is listed today for correction of small errors in the order.

They are:-

(i) Para 2 of judgment to be read as:

“2.While Mr.Santhanaraman, learned counsel is on record for Mr.K.S.Damodaran, who is R2, R1, Appellant & R3 in O.S.A.No.430 and 431 of 2001, Company Appeal No.17 of 2009 and C.M.A.No. 403 of 2007 respectively, he had represented before us that he would not be representing Mr.K.S.Damodaran, on and from the hearing on 26.06.2025. The reason is that, on 23.04.2025 all parties had expressed an inclination to settle the litigation amicable, since after all, they are siblings.”

(ii) In para 3, the name of Mr.K.S.Anantharaman shall read as ‘Mr.K.S.Damodaran’;

(iii) That apart, in para 25, the phrase ‘the main



OSA.Nos.430 of 2001 etc batch

contention of the appellant are is that' shall read 'the main contentions of the appellant are';

(iv) In para 33, the comma, after the citation is removed;

(v) In para 43, the word 'reins' shall read as 'reigns';

(vi) In para 45, the first portion of the line 'what we do however have' shall read as 'What we do have however';

2. Barring the aforesaid corrections, the judgment remains unaltered.

[A.S.M, .J] [N.S, .J]
15.12.2025

ssm

Note : Registry to issue copy after incorporating the aforesaid corrections.



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OSA.Nos.430 of 2001 etc batch

Dr. ANITA SUMANTH, J.
and
N.SENTHILKUMAR, J.

ssm

O.S.A.Nos.430 & 431 of 2001,
Com.Appeal No.17 of 2009 and
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And
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& CMP.Nos.8557, 8559 & 2007 of 2025

15.12.2025