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C.A.No. 5050 OF 1998
ITEM NO.110 COURT NO.2 SECTION-XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO.5050 OF 1998

RAJAMMAL

.....

APPELLANT(S)

:VERSUS:

NANDAKUMAR & ORS.

.....

RESPONDENT(S)

(With Office Report)

Date :16/03/2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE DR. JUSTICE AR. LAKSHMANAN
HON'BLE MR. JUSTICE G.P. MATHUR

For Appellant (s)Mr. Balaji Srinivasan,Adv.
Mr. V. Sudeer,Adv.
Mr. MBRS. Raju,Adv.
Ms. S.Sunita,Adv.
Mr. S. Srinivasan,Adv.

For Respondent (s)Mr. V. Balaji,Adv.
Ms. Aarthi Radhakrishnan,Adv.
Ms. T.S. Shanthi,Adv.
Mr. A.T.M. Sampath,Adv.

Mr. R. Ayyam Perumal,Adv.
Mr. V.G. Pragasam,Adv.

UPON hearing counsel the Court made the following
O R D E R

Heard the learned counsel for the parties for about 15 minutes.
The appeal is allowed, the impugned order passed by the High Court is set aside and the matter is remitted to the Division Bench of the High Court for reconsideration in terms of the signed order.

(A.S. BISHT)(OM PRAKASH)
COURT MASTER

COURT MASTER

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

RAJAMMAL

.....

APPELLANT(S)

:VERSUS:

NANDAKUMAR & ORS.

.....

RESPONDENT(S)

O R D E R

A writ petition was filed before the High Court by respondent No.A, seeking for a direction to respondent Nos.B and C, to remove the encroachment from the land measuring 1115 sq. feet, in Door No.2, Pillaiyar Koil Street, Saidapet, Madras-15. The learned Single Judge allowed the writ petition and directed respondent Nos.A and B before him to take further steps on the representation made by the writ petitioner within 90 days from the date of receipt of the order of the High Court. Thereafter the matter was carried in appeal before the Division Bench of the High Court and a number of documents were produced by the appellant. One of the grievances of the appellant before the Division Bench of the High Court was that the learned Single Judge did not

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give an opportunity to the appellant to put forth his case before him and therefore he could not produce necessary documents at the time of hearing of the matter. The Division Bench also while dealing with the writ appeal did not look into any of these documents but passed a cryptic order that the parties would be at liberty to raise objections before the appropriate authority, in accordance with law. But it did not indicate as to what authority can decide the matter or in what manner the parties can work out their rights. Much less the High Court adverted to any of the documents produced before it.

We, therefore, set aside the impugned order passed by the High Court and remit the matter to Division Bench of the High Court for reconsideration. The writ appeal shall stand restored to its original number.

Appeal is allowed accordingly.

.....J
(S. RAJENDRA BABU)

.....J
(Dr. AR. LAKSHMANAN)

.....J
(G.P. MATHUR)

NEW DELHI,
MARCH 16, 2004.