

(1894) 05 MAD CK 0001
In the Madras High Court

Hanumayya and Another

APPELLANT

Vs

Venkatasubbayya and Others

RESPONDENT

Date of Decision : 02-05-1894

Acts Referred:

Citation : (1895) ILR (Mad) 23

Hon'ble Judges : Muttusami Ayyar, J; Best, J

Bench : Division Bench

Judgement

1. The reason assigned by the Judge for declining to appoint a receiver is that the acts complained of amount to misappropriation rather than waste, and that petitioners can hereafter institute a criminal prosecution. These are clearly not sufficient reasons. Section 503 of the CPC authorises the appointment of a receiver for the preservation or better custody of property the subject of a suit. Whether property is vested or misappropriated makes no difference for the purposes of this section. The future institution of a criminal prosecution will not enable a party to recover property that may have been misappropriated.
2. We cannot support the Judge's order.
3. It is therefore set aside and the case remanded for disposal according to law.
4. The costs hitherto incurred will abide and follow the result.