

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.11.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.1697 of 2015

G.Jagannathan : Petitioner

versus

M/s.Plaza Properties Ltd.,
rep. By its Managing Partner,
Mr.T.Shyam Prasad : Respondent

PRAYER: Revision filed under Article 227 of the Constitution of India against the order dated 16.4.2014 dismissing the memo filed by the petitioner in I.A.No.592 of 2010 in O.S.No.628 of 2008 on the file of the District Munsif, Alandur.

For petitioner No appearance

For respondent :: Mr.J.Sudhakaran

ORDER

The petitioner filed a memo before the Trial Court in O.S.No.628 of 2008 to the effect that in view of the orders passed by this Court in CRP (PD) No.1668 of 2011, there is no need for an application for appointment of Advocate Commissioner and the Court has to *suo motu* pass an order appointing Advocate Commissioner to inspect the suit property. The Trial Court passed an order dated 16 April 2014 indicating that the proper

course is to file an application taking into account the spirit of the order passed by the High Court in C.R.P.(PD) No.1668 of 2011. The said order is under challenge in this civil revision petition.

2. None appeared on behalf of the petitioner. Heard the learned counsel for the respondent.

3. The civil revision petition in C.R.P.(PD) No.1668 of 2011 was filed by the respondent herein. The civil revision petition was dismissed by this Court taking into account the consent given by both the parties that the application in I.A.No.592 of 2010 would be considered afresh. Such being the factual position, the petitioner was not correct in contending that there is no need for deciding the application in I.A.No.592 of 2010 afresh. The order passed by this Court dated 25 November 2011 is very clear that the Trial Court has to consider the application in I.A.No.592 of 2010 afresh.

4. The order passed by the learned Trial Judge is modified. The learned Trial Judge is directed to reopen the application in I.A.No.592 of 2010 and pass orders on merits after hearing both the parties. It is needless to mention that in view of the order dated 25 November 2011 in C.R.P.(PD) No.1668 of 2011, appointment of Advocate Commissioner made in I.A.No.592 of 2010 is no longer valid. The Trial Court is therefore bound to consider the application afresh. It is open to the parties to take up

all contentions before the Trial Court in I.A.No.592 of 2010.

5. The civil revision petition is disposed of with the above direction.
No costs. Consequently, M.P.No.1 of 2015 is closed.

24.11.2016

Index:Yes/no
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To
The District Munsif, Alandur.

K.K.SASIDHARAN, J.

(tar)

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