

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.11.2016**

CORAM:

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

**C.R.P.(P.D.) No.2541 of 2016 and**  
**CMP.No.13055 of 2016**

Jayapandurangan

...Petitioner

versus

1.I.M.Jamal Mohideen

2.J.Mohamed Shahid

3.Balaguru

Ramani (Deceased)

4.P.S.Moorthy

5.M.Y.Fakrudeen Ali

...Respondents

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decretal order dated 13.06.2016 passed in I.A.S.R.No.1587 of 2016 in O.S.No.1217 of 2013 on the file of the Hon'ble VIII Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.P.Mohanraj

For Respondents : No appearance

**ORDER**

The plaintiff in O.S.No.1217 of 2013 on the file of VIII Assistant Judge, City Civil Court, is the petitioner in this Civil Revision Petition.

2. The petitioner filed a suit for injunction against the respondents. In the said suit, the Trial Court appointed an Advocate Commissioner pursuant to the application filed by the petitioner in I.A.No.14287 of 2014. The Advocate Commissioner submitted his report. The petitioner as well as the respondents filed objections. It is the grievance of the petitioner that the Trial Court abruptly closed the application without conducting enquiry as to whether report should be accepted or not. The petitioner, therefore, filed an application in I.A.Sr.No.1587 of 2016 to re-open the application in I.A.No.14287 of 2014. The learned Trial Judge, by way of a very brief order rejected the application as not maintainable. Feeling aggrieved, the unsuccessful petitioner has come up with this Civil Revision Petition.

3. Heard the learned counsel for the petitioner. None appears on behalf of the respondents in spite of printing their names in the cause list after service.

4. The petitioner filed the application in question with a prayer to re-open the application in I.A.No.14287 of 2014. The application was filed with a grievance that the Trial Court has not conducted enquiry

after submitting the objections to the report. The Trial Court, without, numbering the application had rejected it on the ground of maintainability. I am not in a position to understand the logic behind saying that the application is not maintainable without even numbering the same. The order passed by the Trial Court in I.A.No.14287 of 2014 does not contain any indication as to whether report was received by the Court. It was only in the said circumstances, the petitioner filed the application to reopen the interlocutory application in I.A.No.14287 of 2014. The Trial Court was not correct in rejecting the application on the ground of maintainability. I am therefore of the view that the application deserves to be heard afresh on merits.

5. In the result, the order dated 13 June 2016 is set aside. The VIII Assistant Judge, City Civil Court, Chennai is directed to number the application in I.A.Sr.No.1587 of 2016 and decide the same on merits and as per law with notice to the respondents. Such exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

**K.K.SASIDHARAN, J.**  
(svki)

6. The Civil Revision Petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

**08.11.2016**

Index : Yes/No

**Note : Issue order copy by 14.11.2016**  
svki

To

The VIII Assistant City Civil Court,  
Chennai

**C.R.P.(P.D.) No.2541 of 2016**