IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **22.06.2017**

CORAM:

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

C.R.P.(P.D).No.2970 of 2013 and
M.P.No.1 of 2013

1.Mohanambal
2.Sekar ...Petitioner

Vs

Palanisamy Gounder ...Respondent

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 19.10.2012 made in I.A.No.995 of 2012 in O.S.No.322 of 2006 on the file of the District Munsif Court, Palladam.

For Petitioners : Mr.P.M.Duraiswamy

For Respondent : Mr.K.Goviganesan

O R D E R

The Trial Court appointed Advocate Commissioner, pursuant to the application filed by the respondent. Since the Advocate Commissioner failed to file the report, the Trial Court closed the application on 6 April 2010. The respondent, thereafter, filed an

application in I.A.No.995 of 2012 to re-open the application and for a direction to the Commissioner to inspect the property. The application was allowed by the Trial Court. The order is under challenge in this Civil Revision Petition.

2. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

3. The documents available on record indicate that the trial court appointed Advocate Commissioner on 11 October 2006. The Commissioner failed to file the report and the same resulted in closing the application on 06 April 2010. It is true that only after about two years, the respondent filed application for re-opening the earlier application, which was closed for want of report.

4. The Trial Court having found that the respondent has taken reasonable steps for appointing the Advocate Commissioner by depositing the Commissioner's amount and it was only the negligence of the Commissioner in not filing report within the period granted by the Court, the application was re-opened. The respondent was not at fault for the failure on the part of the Commissioner to submit the report. I

am, therefore, of the view that the trial Court was correct in re-opening the application, at the instance of the respondent. It is always open to the petitioners to file objection to the Commissioner's report.

The civil revision petition is dismissed with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

22.06.2016

dna/gms

To
The District Munsif Court, Palladam.

K.K.SASIDHARAN,J.

dna

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