



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED:25.10.2019

CORAM:

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**  
**CRP. (MD) .No.1536 of 2012 (PD)**

**and**  
**M.P. (MD) .No.1 of 2012**

1. P.Parameswari  
2. P.Periyasamy

.. Petitioners/Plaintiffs/Petitioners

Vs.

M.Krishnasamy

.. Respondent/Defendant/Respondent

PRAYER: This Petition filed under Article 227 of the Constitution of India to set aside the order dated 13.07.2010 in I.A.No.205 of 2009 in O.S.No.142 of 2009, on the file of the Additional District Munsif Court, Karur.

For Petitioners : Mr.K.Govindarajan  
For Respondent : Mr.M.P.Senthil

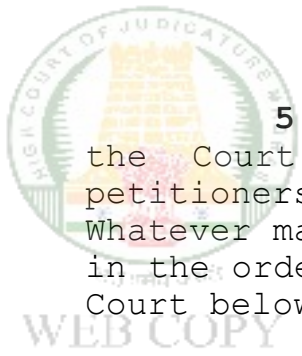
**O R D E R**

The fair and final order passed by the Court below, dismissing the application filed for appointment of an Advocate Commissioner has become a subject matter of challenge in this petition.

2. The petitioners are the plaintiffs, who have filed a suit against the respondent / defendant, seeking for the relief of mandatory injunction. During the pendency of the suit, the petitioners filed an application for appointment of an Advocate Commissioner to inspect the property and to measure the same with the help of a Surveyor and file a report and plan with a survey sketch. This application came to be dismissed by the Court below without assigning any reasons.

3. The learned counsel appearing for the petitioners submitted that the Court below has not given any reasons as to why the application is closed and the Court below ought to have decided the application on merits.

4. Per contra, the learned counsel appearing for the respondent submitted that there is a connected proceedings, which is pending before this Court by way of Second Appeal and therefore, the Court below had closed the application.



5. This Court is not able to see any reasons assigned by the Court below while closing the application filed by the petitioners, seeking for appointment of an Advocate Commissioner. Whatever may be the reasons, the Court below ought to have stated it in the order and in the absence of the same, the order passed by the Court below is liable to be set aside on that sole ground.

6. The fair and final order passed by the Court below in I.A.No.205 of 2009 in O.S.No.142 of 2009, dated 13.07.2010, is hereby set aside and there shall be a direction to the Court below to decide I.A.No.205 of 2009 in O.S.No.142 of 2009, on merits and in accordance with law and pass orders within a period of four weeks from the date of receipt of a copy of this order. It goes without saying that the Court below shall hear the objections of the respondent before passing any order.

7. This Civil Revision Petition is allowed with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS )

To

The Additional District Munsif,  
Karur.

+1 CC to Mr.K.GOVINDARAJAN, Advocate ( SR-94970[F] dated  
30/10/2019 )

+1 CC to Mr.M.P.SENTHIL, Advocate ( SR-95050[F] dated 31/10/2019 )

**CRP. (MD) .No.1536 of 2012 (PD)**

**25.10.2019**

**TSG**

MK (12.11.2019) 2P 4C