

A.Nos.3374 & 3375 of 2021
in C.S(Comm.Div.)No.488 of 2019

DR.G.JAYACHANDRAN, J.

Application No.3374 of 2021 filed by the defendants 1 and 2 for removal of the Advocate Commissioner and liberty to take another Chartered Engineer to value and arrive at the cost of construction or in alternate to retain the Advocate Commissioner and assess the value afresh by some other Chartered Engineer.

2. Application No.3375 of 2021 is filed to grant permission to the defendants to file objections to the Commissioner's report supported to the Chartered Engineer Mr.Malavannan as an alternate relief, if the Court is not inclined to grant the relief sought in the application No.3374 of 2021

3. On behalf of the plaintiff, detailed counter has been filed refuting the factual averments made in the applications.

4. The ground on which this application is filed is that the Advocate Commissioner and the Chartered Engineer visited the premises without serving prior notice to the defendants. Therefore the report issued by

the Advocate Commissioner is objected by the defendants. To mitigate the hardship new Chartered Engineer may be appointed.

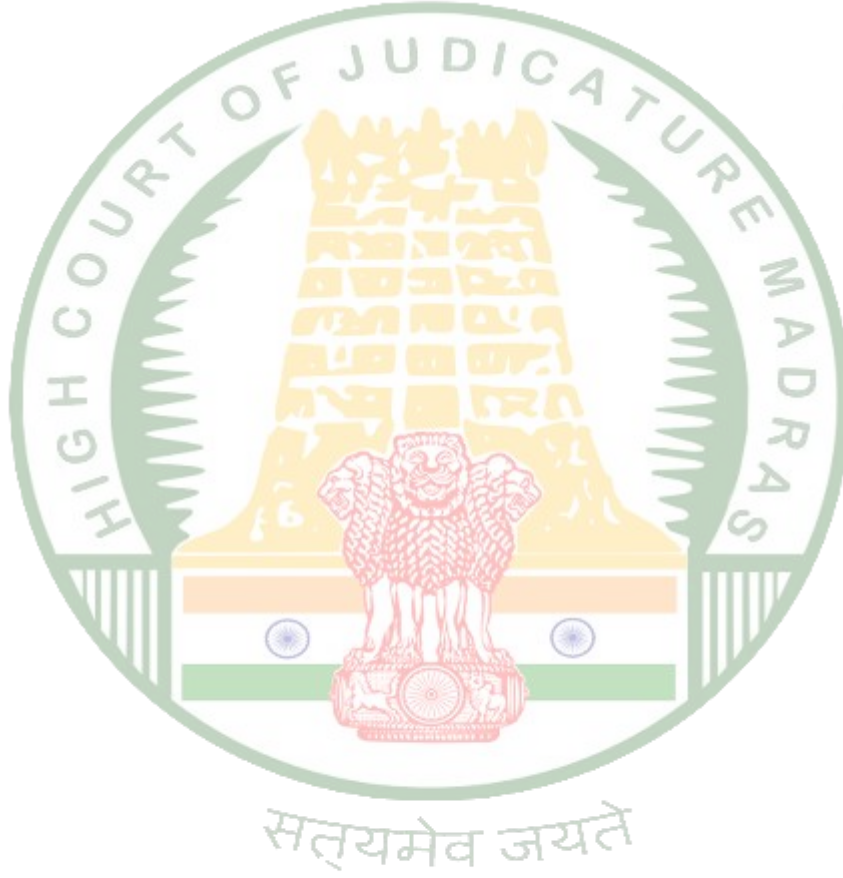
5. It is contended by the learned counsel for the applicant that the entire affair of the assessment of the building value has done behind the back of the defendants. However, the same is denied and disputed by the plaintiff. More particularly, relying on the Advocate Commissioner's report, where the notice to the applicants and the presence during the assessment being noted. Further the learned counsel for the plaintiff would also draw attention regarding the observation made by this Court in its order dated 11.09.2020, wherein, the same plea raised in the present application has been canvassed and answered negative for the applicants herein.

6. In any event, since the alternate relief for filing the objection is sought in Application No.3375 of 2021 and admittedly till date the applicants have not filed any objection to the Commissioner's report and the Chartered Engineer report, this Court is of the view that in compliance with the principle of natural justice, the request of the applicants to file their objections to the Commissioner's report and the Chartered Engineer's report may be acceded.

7. Accordingly, the applications are allowed. The applicants shall file their objections, if any to the Commissioner's report and the Chartered Engineer's valuation on or before 09.11.2021.

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