



**Nagercoil Vs. Daisy Morayin and others) and 2003 4 LW 77
(P.Chockalingam Vs. M.Pichai).**

- 4.The learned counsel for the Respondent has submitted that when the earlier report and plan of the Advocate Commissioner were not objected to, appointment of an Advocate Commissioner for the second time for the very same purpose, is not necessary and that only to delay the appeal proceedings, the application had been filed and hence, this Civil Revision Petition is liable to be dismissed.
- 5.This court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.
- 6.It is seen from the records that an Advocate Commissioner was appointed before the Trial Court and his report and plan were filed and the Defendant did not file any objection to the report and plan of the Advocate Commissioner, before Trial Court. When the first appeal was posted for pronouncing judgement by the lower appellate court, the present application came to be filed for the second time to reopen and measure the suit property once again. Appointment of 2nd Commission, without setting aside the earlier report and plan of the Advocate Commissioner, cannot be permitted. A party cannot collect evidence through Advocate Commissioner.
- 7.The suit is of the year 2004 and it was decreed in 2013 and the appeal was filed in 2013. The judgement and decree of the Trial Court is against the Petitioners. This Civil Revision Petition was filed in the year 2014, wherein at the time of admission interim stay was granted on 29.04.2014 and thereafter, this Civil Revision Petition has been adjourned several times and is kept pending without any further order.
- 8.In view of the above, this Court is of the view that the application and this Civil Revision Petition have been filed only to fill up the lacuna and drag on the appeal proceedings and as such, the impugned order, refusing to reappoint an Advocate Commissioner, need not be interfered with.
- 9.In fine, this Civil Revision Petition is dismissed.. No costs. Consequently, the connected MP is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



To

The Principal Sub Court, Dindigul.

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The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court, Madurai (2 copies).

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18/11/2021)

+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-35112[F] dated
19/11/2021)

CRP (MD) No.932 of 2014
18.11.2021

RK(30/11/2021) 3P 6C