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C.M.P.No.3558 of 2019
in
C.M.A.No.403 of 2007

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R.SUBRAMANIAN, J.
and
R.KALAIMATHI, J.

(Order of the Court was made by **R.SUBRAMANIAN, J.**)

This application has been filed seeking appointment of Advocate Commissioner for the purpose of overall supervision of the construction of compound wall in respect of the property more-fully specified in the schedule to this application at the instance and costs of the petitioners herein.

2. The main appeals in OSA.Nos.430 and 431 of 2001 and CMA.No.403 of 2007 are proceedings under Section 10 of the Companies Act. The original proceedings against which the Civil Miscellaneous Appeal arises is CP.No.16 of 2003 before the Company Law Board under Sections 397, 398, 402 and 403 of the Companies Act. The OSAs arise out of the orders passed in CP.Nos.60 of 1996 and 199 of 1998. These are the



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applications for winding up which were dismissed.

3. We are unable to see as to how a Commissioner can be appointed, that too for construction of a compound wall for the property that has been sold away by the Company, in appeals against the proceedings for winding up and proceedings for oppression and mis-management. The scope of the proceedings in these appeals is very restricted and it cannot extend to grant the relief in respect of immovable property either in favour of the Company or other persons.

4. We are therefore unable to sustain the order passed on 30.06.2023 appointing a Commissioner. Hence, the petition will stand **dismissed**. If the purchasers want to protect the property they are at liberty to approach the proper civil Court.

5. The fees paid to the Commissioner shall be retained by him.

6. Post the CMA.No.403 of 2007, OSA.Nos.430 and 431 of



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2001 and Com.Appeal No.17 of 2009 on **21.08.2023** after the Admission
cases.

dsa

(R.S.M., J.) (R.K.M., J.)
03.08.2023



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