



A.No.6017 of 2023 in C.S.No.221 of 2023

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**N.SATHISH KUMAR, J.**

This petition has been filed to appoint an advocate Commissioner to inspect the premises with the assistance of an expert to assess the damages and submit a report.

2. This application has been filed seeking appointment of an advocate commissioner mainly to find out the nature of damages caused by the respondent. The suit has been originally filed for recovery of arrears of rent from the respondent, who was a tenant under the applicant. It is not disputed that the respondent was inducted as a lessee under erstwhile owner of the premises and the lease expired long back. The plaintiff is the subsequent purchaser of the property and the respondent has not paid the rent to the applicant. It is also the stand of the applicant that the respondent caused damages to the windows and doors. Though the damages have been estimated at Rs.10 lakhs, now the application has been filed to appoint an Advocate Commissioner to note down the nature of damages caused by the respondent.



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3. In the counter, it is the stand of the respondent that the respondent had not caused any damage to the property and the property has already been handed over to the applicant. It is their further contention that no commissioner, was appointed at the time of handing over vacant possession to the applicant. According to the respondent, as the premises has already been handed over and the same has been accepted by the applicant, the question of asserting damages, at this stage, does not arise at all. Hence, opposed the applicant.

4. I have perused entire materials. This application is limited for appointment of an Advocate Commissioner to assess the nature of damages said to have been found in the doors and windows. Though the plaintiff claimed Rs.10 lakhs damages in the suit, it is for him to establish the damages actually occurred in the premises. At the same time, to note down physical features the property, which was already handed over to the applicant, if an advocate commissioner is appointed, nobody will be prejudiced. The commissioner will file a report noting down the damages found in the premises. Such report itself will not be a conclusive proof that it is only the respondent has



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caused damages to the doors and windows. It is the burden of the plaintiff to prove that the so called damages have been caused by the defendant.

5. In such view of the mater, Ms.A.Shanmukasundari, learned counsel, having office at No.367, Addl. Law Chamber, High Court Building, Chennai – 600 104, Mobile No.8924524710, is appointed as an Advocate Commissioner to inspect the suit property and note down its physical features, particularly as to damages and file a report before this Court by 25.03.2024. The fee of the Advocate Commissioner is fixed at Rs.40,000/- [Rupees forty thousand only] and the same shall be paid by the applicant to the Advocate Commissioner.

**05.03.2024**

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