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A.No.5436 of 2024
in
C.S.(Comm.Div) No.197 of 2024

K.KUMARESH BABU, J.

The matter has been listed today under the caption 'for being mentioned' at the instance of the applicant.

2. Pursuant to the order of the Hon'ble Apex Court made in Special Leave to Appeal (C) Nos.13478-13480/2020, the applications filed by the applicants were taken up and issues were framed. During the course of the hearing of the said applications, it was indicated that the High Court may appoint a Commissioner for recording of evidence, even though the stage of recording of evidence was at the stage, where D.W1 was deposing and taking into his condition of health, a request was made to appoint an Advocate Commissioner for recording the evidence. Considering the said request, this Court had appointed a former District Judge to record his evidence.

3. However, today the learned counsel appearing for the plaintiff and the defendants would submit that a request was made to the Arbitration and Mediation Centre attached to this Court for recording of evidence and the same had been refused by them, as the same could not be used for recording of a



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regular proceedings before the Court. Hence, they had also attempted to record the evidence outside the premises of the Court, for which the Registry had refused to hand over the bundle to the Advocate Commissioner for recording of evidence. Hence, the learned counsel appearing on either side would request the Court either to direct the Arbitration Centre to permit them for recording of such evidence, for which the cost would be paid by the parties or otherwise direct the Registry to hand over the bundle to the Advocate Commissioner, who is also a retired District Judge for recording of evidence outside the premises of this Court.

4. The reason for appointing an Advocate Commissioner for recording of evidence was taking into consideration that he had been suffering from ill-health and that apart, the plaintiff, who is aged, was residing in Coimbatore, but however, from the statements made by the learned counsel appearing on either side, the parties have travelled to the premises of this Court for recording of evidence. When the parties have travelled to the premises of this Court for recording of evidence, I do not find any impediment in them to record their evidence before the learned Master within the premises of the Court. In such view of the matter, the order dated 22.10.2024 is hereby recalled and the parties are directed to appear before the learned Master for continuation of recording of



evidence of the respective parties.

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5. List the matter before the learned Master for recording of evidence.

09.12.2024

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