

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07.11.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.3313 of 2016

1.P.Subramaniam

2.P.Murugan

...Petitioners

versus

1.K.Veerakumar

2.P.Amarasamy

3.V.Periyapaiyan

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and final order dated 07.09.2016 made in I.A.No.499 of 2015 in I.A.No.778 of 2015 in O.S.No.13 of 2008 on the file of I Additional District Munsif Court, Bhavani.

For Petitioners : Mr.T.Murugamanickam

For Respondents : Mr.D.Selvaraju

ORDER

The first respondent filed an application before the Trial Court in I.A.No.499 of 2015 in I.A.No.778 of 2009 to initiate proceedings for sale among the sharers and to secure the best price for the property, which was the subject matter of partition in O.S.No.13 of 2008.

2. The learned Trial Judge passed an equitable order directing the parties to quote their offer to purchase the titled house in a sealed cover so as to enable the Court to direct sale. The said order is under challenge at the instance of the respondents 3 and 4 in I.A.No.499 of 2015 in this Civil Revision Petition.

3. Heard the learned counsel for the petitioners and the learned counsel appearing on behalf of the respondents.

4. The Advocate Commissioner appointed by the I Additional District Munsif, Bhavani found that it would not be possible to partition the farm house into 5 equal shares. The first respondent, therefore, filed the application to auction the said property among the sharers.

5. The petitioners opposed the application on the ground that their vendor Thiru.K.P.Chinnappagounder enjoyed the property separately by way of separate deed and as such, the property should be allotted to them on equity.

6. The Trial Court passed an equitable order taking into account the report submitted by the Advocate Commissioner. The Trial Court was of the view that parties must be given opportunity to submit their bids so as to make allotment to the highest bidder. The order was passed taking into account the nature of property and the report submitted by the Advocate Commissioner. Such an equitable order, which was passed, taking into account the interest of the parties, is not liable to be interfered with by this Court by exercising the revisional jurisdiction under Article 227 of the Constitution of India.

7. The petitioners are given liberty to submit their bids. In case, the petitioners are prepared to offer an amount more than the offer made by the other parties, necessarily, the Trial Court must consider their offer and pass appropriate orders on merits.

8. The Civil Revision Petition is disposed of with the above direction. No costs.

07.11.2016

Index : Yes/No
svki

K.K.SASIDHARAN, J.

(svki)

To

The I Additional District Munsif Court, Bhavani

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