

A.Nos.2301 to 2306 of 2019 &
A.No.5670 of 2018
in
C.S.No.923 of 2006

R.SURESH KUMAR,J.

These applications came up for hearing today for order of payment out.

2. In one of such application, this Court has passed an order on 04.04.2019 which reads thus:

"4. Since the first applicant / first plaintiff is entitled for the 1/6th of the sale proceeds of the 'A' Schedule Property which comes to the said amount of Rs.34,77,300/- (Rupees Thirty Four Lakhs Seventy Seven Thousand and Three Hundred Only), he seeks indulgence of this Court to order payment out of the said amount.

5. Considering the said factual matrix of the case and since there has been no objection for making the said payment out as has been submitted by the respondents herein, the prayer sought for payment out is allowed.

6. Registry is directed to issue payment out in favour of the first applicant / first plaintiff."

3. Since other applications have been filed by the respective plaintiffs, similar order they seek for in those applications also.

4. In this regard, the learned counsel for the applicants / plaintiffs has filed a memo dated 29.04.2019 which reads thus:

"The above mentioned named plaintiffs submit that the plaintiffs 1 to 4 filed a suit for partition claiming each 1/6th share in the suit properties. By consent preliminary decree was passed on 30.04.2013 allotting 1/6th share to each of the plaintiffs. Subsequent to the passing of the preliminary decree third plaintiff died and her legal representatives were added as plaintiffs 5 to 8.

In the final decree proceedings 'A' schedule property was sold in public auction and a sum of Rs.2,08,63,800/- was deposited in the Court. The plaintiffs have filed payment out applications for withdrawal of their share amount, the details of which are given below:

1. A.No.2300 of 2019 filed by the first plaintiff Lakshmi Shanmugam for payment out of a sum of Rs.34,77,300/- being her 1/6th share in the sale proceeds. (ordered on 04.04.2019)
2. A.No.2301 of 2019 filed by the second plaintiff Rathinakumari Shanmugasundaram for payment out of a sum of Rs.34,77,300/- being her 1/6th share in the sale proceeds.
3. A.No.2302 of 2019 filed by the fourth plaintiff Geeta Vadivelu for payment out of a sum of Rs.34,77,300/- being her 1/6th share in the sale proceeds.

4. A.No.2303 of 2019 filed by the fifth plaintiff E.Ramalingam husband of the deceased third plaintiff for payment out of a sum of Rs.8,69,325/- being his 1/24th share in the sale proceeds.

5. A.No.2304 of 2019 filed by the sixth plaintiff R.Loganathan son of the deceased third plaintiff for payment out of a sum of Rs.8,69,325/- being his 1/24th share in the sale proceeds.

6. A.No.2305 of 2019 filed by the seventh plaintiff R.Vijayakumar son of the deceased third plaintiff for payment out of a sum of Rs.8,69,325/- being his 1/24 th share in the sale proceeds.

7. A.No.2306 of 2019 filed by the eighth plaintiff R.Mohanraj Kumar for payment out of a sum of Rs.8,69,325 being his 1/24 th share in the sale proceeds."

5. Since the respective applicants / plaintiffs are entitled to get the payment out in proportionate share of the estate of the applicants, the following orders are passed:

" (a) Since the applicants / plaintiffs 1, 2 and 4 are entitled for the 1/6th of the sale proceeds of the 'A' Schedule Property which comes to the said amount of Rs.34,77,300/- (Rupees Thirty Four Lakhs Seventy Seven Thousand and Three Hundred Only) each, they seek indulgence of this Court to order payment out of the said amount.

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(b) Like wise the applicants / plaintiffs 5th, 6th, 7th and 8th are entitled for the 1/24th of the sale proceeds of the 'A' Schedule Property which comes to the said amount of Rs.8,69,325/- (Rupees Thirty Four Lakhs Seventy Seven Thousand and Three Hundred Only) each, they also seek indulgence of this Court to order payment out of the said amount.

(c) Considering the said factual matrix of the case and since there has been no objection for making the said payment out, as has been submitted by the respondents herein, the prayer sought for payment out is allowed.

(d) The Registry is directed to issue payment out in favour of the applicants /plaintiff Nos.2, 4, 5, 6, 7 & 8."

Accordingly, all these applications are allowed.

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