

A.Nos.3069 and 3070 of 2019
in C.S.No.545 of 2011

PUSHPA SATHYANARAYANA, J.

The plaintiff filed A.No.3069 seeking appointment of an Advocate Commissioner to divide the suit schedule mentioned property by metes and bounds and to allot half share and to handover the separate possessions in respect of the half share to the applicant/plaintiff.

A.No.3070 of 2019 was filed by her with a prayer to determine the mesne profits in respect of her half share and direct the first respondent/first defendant to pay the determined mesne profit to her.

2. It is seen that preliminary decree in the suit was passed on 17.03.2017 declaring that the plaintiff is entitled to claim ½ share in the suit property and also mesne profits in respect of that ½ share. Since then, the first respondent did not come forward to effect partition and allot the share of the applicant/plaintiff. Hence, these applications have been filed by the plaintiff.

3. Notice in these applications was ordered on 07.06.2019 and the private notices sent on the respondents have been returned with an endorsement "unclaimed" and thus, the respondents deemed to be served.

4. As stated above, in view of the preliminary passed by this Court in the suit, wherein, the respondents were parties, there cannot be any impediment for appointing the Advocate Commissioner to divide the schedule mentioned properties annexed to the Judge's summons and to determine mesne profits, for which the applicant/plaintiff is entitled for.

5. Accordingly, this Court appoints Mr.P.Dinesh Kumar, Advocate, residing at No.B-3, Sonex Sneha Apartments, 31/14, Halls Road, Kilpauk, Chennai-600 010, (Mobile No.93802 12254) as an Advocate Commissioner to inspect the suit properties along with the Taluk Surveyor and file a report qua modes of division of the properties. The Advocate Commissioner shall also conduct enquiry to determine mesne profits from the date of plaint till the date of decree and submit his report. The Advocate Commissioner shall be paid an initial remuneration of Rs.50,000/- (Rupees Fifty thousand only). The expenses towards his travel shall be defrayed by the parties. The Commissioner shall take the assistance of police, if necessary, to divide the property.

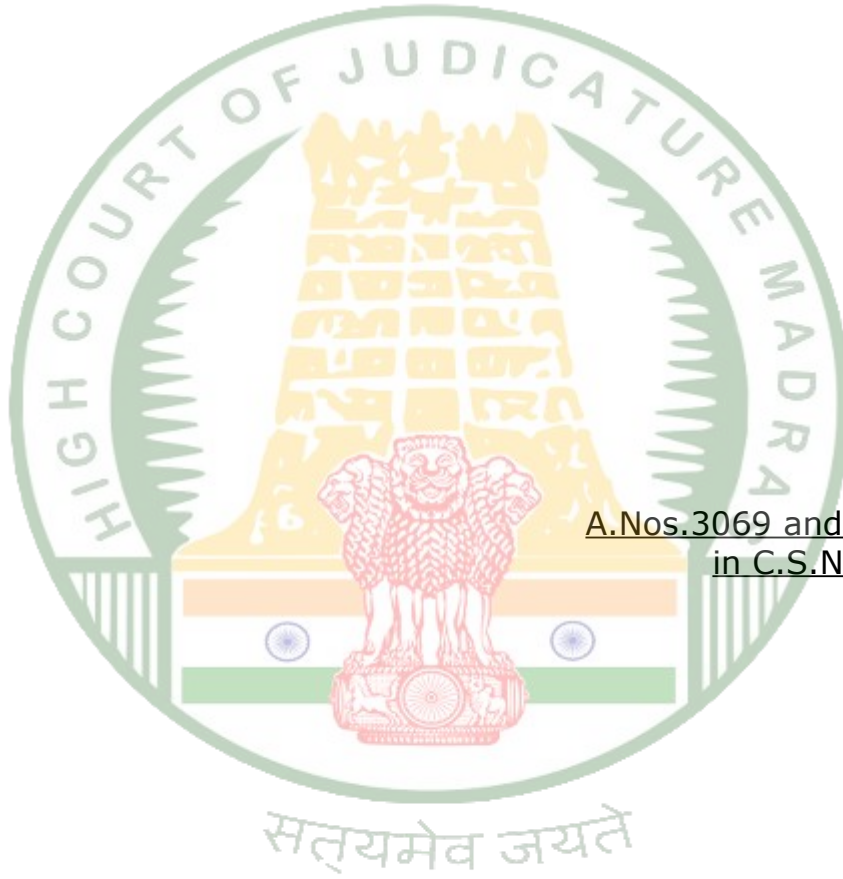
6. Time for execution of warrant is granted till 13.08.2019.

12.07.2019

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