

A.Nos.9506, 9507 & 9508 of 2019
in
C.S.No.419 of 2014

SENTHILKUMAR RAMAMOORTHY.J.

This application is filed to pass a final decree in the above suit allotting half share to the plaintiff.

2. I heard the learned counsel for the applicant and the learned counsel for the respondents. The learned counsel for the applicant submitted that the suit schedule property measures 1400 sq.ft. It is divisible into two equal halves and that one half should be given to the applicant. On account of the fact that the respondents are not agreeing to the same, she submitted that it is just and necessary to appoint an Advocate Commissioner so as to inspect the property and provide a report as to the divisibility of the property and the manner of such division. In response, the learned counsel for the respondents submitted that he has obtained an Engineer's report dated 20.01.2020 to the effect that the property cannot be divided into two shares especially because there is a Metro rail underground tunnel running below the suit property and that there are restrictions with regard to the future development of the property. He further submitted that the respondents are ready and willing to give 50% of the value of the suit schedule property to the applicant but the applicant is unwilling to accept the same. Therefore, he submitted that it is totally unnecessary to appoint an Advocate Commissioner.

SENTHILKUMAR RAMAMOORTHY.J.

gsi

3. I considered the submissions of the counsel of the respective parties and examined the records. It is the admitted possession that the applicant is entitled to a 50% share in the suit schedule property. It is also clear from the affidavit and counter affidavit that the parties concerned have conflicting views with regard to the divisibility of the property. In specific, the applicant contends that the property is divisible into two halves whereas the respondent contended that it is not divisible for reasons set out in the counter affidavit and on the basis of the Engineer's Report.

4. In these circumstances, I find that it is just and necessary to appoint an Advocate Commissioner to inspect the property and submit a report as to whether the property is divisible and if so the manner of such division. Accordingly, this application is disposed of by directing that Mr.P.S.Kothandaraman (Mobile Number: 9444163143) be appointed as the Advocate Commissioner to inspect the property and submit a report with regard to the divisibility of the property, including the manner of such division. The Advocate Commissioner shall execute the warrant on or before 28.02.2020 and file a report thereon before this Court. A sum of Rs.30,000/- (Rupees thirty thousand only) shall be paid initially as remuneration to the Advocate Commissioner by the applicant.

30.01.2020

gsi