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*A.Nos.7177 and 7178 of 2018
in
C.S.Nos.1046 & 1047 of 2008*

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in
CS.Nos.1046 & 1047 of 2008

P.T. ASHA, J.

A.Nos. 7177 and 7178 in C.S.Nos. 1046 & 1047 of 2008 respectively are applications filed for passing a final decree in terms of the preliminary decree.

2. C.S.No. 1046 of 2008 is filed by one S. Rampprasadh, for a partition and separate possession of his half share in the suit schedule property and for an injunction restraining the defendant from alienating the property.

3. C.S.No.1047 of 2008 is filed by one S. Rampprasadh and his mother Jailakshmi Srinivasan, against S. Shivpprasadh and three others for a partition and separate possession of their 5/9th share in the suit 'A' Schedule property (4/9th share to S. Rampprasadh and 1/9th share to Jailakshmi) and for a 2/3rd share in the 'B' Schedule business besides praying for other reliefs. The second defendant was a tenant and the third defendant is the sister of the first plaintiff and the first defendant and daughter of the second plaintiff. The fourth defendant is the wife of the first plaintiff. By Judgment and



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decree dated 02.01.2018, a preliminary decree for partition was passed in both the suits in favour of the first plaintiff. In C.S.No. 1046 of 2008, the plaintiff's right to a half share was declared and in C.S.No.1047 of 2008, a preliminary decree for partition and separate possession of 5/9th share in the 'A' Schedule property alone was decreed in favour of the first and second plaintiffs. With reference to 'B' Schedule properties, the suit stood dismissed and the counter claim filed by the first defendant was also dismissed. Thereafter, the plaintiff S. Rampprasadh has taken out these two applications, namely; A.No. 7178 of 2018 in C.S.No.1046 of 2008 for passing a final decree allotting his half share as per the preliminary decree and A.No.7177 of 2018 in C.S.No.1047 of 2008 for passing a final decree by allotting the 5/9th share of the plaintiffs.

4. This court had appointed an Advocate Commissioner to conduct an enquiry, inspect the schedule mentioned property, note down its physical features and measure the same and allot the share to the parties. The Advocate Commissioner was directed to conduct mesne profit enquiry. The Advocate Commissioner had submitted the interim report and thereafter filed his final report on 08.12.2020. Objection has also been filed to the said report.



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5. Pending these applications, the first plaintiff in C.S.No.1047 of 2008, had filed a memo stating that he had no claim against defendants 2 to 4 and had therefore given them up. The said memo is taken on file and it is recorded that the first plaintiff does not have any claim against the defendants 2 to 4, likewise the second plaintiff in the suit C.S.No.1047 of 2008 had passed away on 02.04.2020. Prior to her demise, the second plaintiff Jailakshmi Srinivasan, had executed a registered Settlement Deed dated 19.11.2020 registered as Document No.2463 of 2010 on the file of the SRO, T.Nagar bequeathing her 1/9th share in the 'A' suit schedule property in favour of the first plaintiff. This memo was also taken on file and the legal representatives of the second plaintiff was also brought on record. Pending these proceedings, fortunately, the siblings decided to work out a settlement amongst themselves and their effort has borne fruit.

6. The first plaintiff Rampprasadh and the first defendant Shivpprasadh have entered into a registered partition deed dated 02.03.2021 registered as Document No. 555 of 2021 on the file of the SRO, T.Nagar. Under the Partnership Deed, C and D Schedule properties have been carved out from the schedule A and B Schedule



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properties. The 'C' Schedule property is allotted to the plaintiff S. Rampprasadh and the 'D' Schedule property is allotted to the defendant S. Shivpprasadh. A memo dated 16.03.2021 has been filed in both the applications enclosing therewith this Partition Deed. Therefore, a final decree is passed in terms of the Partition Deed dated 02.03.2021 executed between the plaintiff S. Rampprasadh and the first defendant S. Shivpprasadh, registered as Document No.555 of 2021 on the file of the SRO. T. Nagar. The Partition Deed would form part of the final Decree in A.Nos.7177 and 7178 of 2018 in C.S.No.1047 and 1046 of 2008 respectively. No costs.

24.03.2021

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