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O.A.Nos.266 & 267 of 2022

in

C.S.No.71 of 2022

C.V.KARTHIKEYAN,J.

The suit has been filed for partition and separate possession of 1/4th share in the suit schedule property. It is stated that the suit schedule property consists of four floors. The specific case of the plaintiff is that the plaintiff is residing in the 3rd floor. The ground floor, 2nd and 4th floor had been let out to tenants and the learned counsel for the plaintiff stated that rental income is being shared among all the parties to the suit.

2.These applications have been filed seeking to protect possession and to protect the property from being alienated or being dealt with by the 2nd defendant who claims under a Will of the mother.

3.It would only be appropriate that, since as on date, probate has not been granted on the Will, and a reasonable inference can be drawn that all the parties have equal shares in the property, that no further alienation or encumbrance is done. If at all the Will is sought to be probated, I am confident that the 2nd defendant would serve notice on the other sharers / co-owners / his brothers and sisters and necessary steps in law would be taken regarding the same.



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C.V.KARTHIKEYAN,J.

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4.But to protect the property, there shall be an order not to alienate or not to deal with the property since as on date, to repeat, the Will has not been probated or given a stamp of the approval of this Court.

5.The possession of the plaintiff in the third floor is admitted. Therefore, it would only follows that such possession should be protected till disposal of the suit. Hence, both the Original Applications are disposed of in accordance with the above observations.

09.09.2022

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