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A.No.1044 of 2022 in
C.S.No.714 of 2011

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V.BHAVANI SUBBAROYAN, J.,

This application is filed by the applicant / 1st defendant to pass a preliminary decree in C.S.No.714 of 2011 declaring 1/4th share of the applicant / 1st defendant in the suit property, as specified in the schedule to the Judges Summons.

2. The learned counsel for the applicant / 1st defendant submitted that the 1st defendant is the brother of the plaintiff and the plaintiff, who is the sister of the applicant has filed a suit seeking for partition of the suit schedule property. Further, preliminary decree was passed on 06.07.2017, declaring that the plaintiff is entitled to 1/4th share in the suit schedule property. Thereafter, final decree was passed identifying the plaintiff's 1/4th share on the South Western side plot measuring A, B.E, F in Plan II, which covers an extent of 1122 Sq.ft., and the applicant / 1st defendant is also entitled for 1/4th share in the suit schedule property. Accordingly, the learned counsel seeks for a direction to pass a preliminary decree in C.S.No.714 of 2011 declaring the applicant's share in the suit schedule property.



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3. Heard the learned counsel for the 1st respondent / plaintiff.

4. On a careful consideration of the materials on record, it is clear that the plaintiff, first, second and third defendants are brothers and sisters and the applicant is the 1st defendant and they are the daughters and sons of Hayat Singh Rawat and Gora Devi, who died intestate. To evidence such facts Exs.P.2, P.3 and P.4 are marked, which are Death certificate of their father, legal heirship certificate and death certificate of their mother respectively. Also, taking into consideration of the fact that the preliminary decree and final decree was passed on 06.07.2017 and 17.11.2021 respectively declaring 1/4th share to the plaintiff in the suit schedule property, this Court is inclined to pass preliminary decree in favour of the applicant / 1st defendant by declaring 1/4th share in the suit schedule property.

Accordingly, this application is allowed.

16.03.2022

ssd

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