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A.No.1301 of 2022
in C.S.No.714 of 2011

V. BHAVANI SUBBAROYAN, J.

Application No.1301 of 2022 has been filed by the applicant/ 3rd defendant to pass a Preliminary Decree in C.S.No.714 of 2011 declaring 1/4th share of the applicant/3rd defendant in the suit schedule property, as specified in the schedule to the Judges Summons.

2. The learned counsel for the applicant/3rd defendant submitted that the 3rd defendant is the sister 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/3rd 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 3rd 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 / 3rd defendant by declaring 1/4th share in the suit schedule property.

5. Accordingly, this application is allowed.

24.03.2022

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