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CRP(PD)No.1084 of/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2022

CORAM:

THE HON'BLE Mr. JUSTICE N.SESHASAYEE

CRP(PD)No.1084 of 2022

E.S.Malarvizhi
Rep. by Power Agent
E.G.S.Sathya Sekaran
S/o.E.R.Sorubanandam

... petitioner

Vs.

V.Madusudhanan
S/o.Vasudevaraja

... Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to order speedy disposal of I.A.No.464 of 2021 (Tambaram I.A.No.733 of 2018) in O.S.No.178 of 1986 on the file of the learned Subordinate Judge, Alandur, within the time specified by this Court.

For Petitioner : Mr.N.Suresh

ORDER

The revision petitioner is the defendant in O.S.No.178 of 1986 now pending on the file of Subordinate Court, Alandur. Earlier, it was pending before the



Subordinate Court, Tambaram. The suit is for partition, in which, the defendant is said to be entitled to half share in the suit property. The learned counsel for the revision petitioner informed the Court that in a final decree proceedings initiated by the plaintiff, the Commissioner was appointed by the Court, that the Commissioner had gone to the property, and that a report has been filed and based on which the Court has passed a final decree, allotting a specific plot to the plaintiff. So far as the other half is concerned, the trial Court is stated to be sitting on I.A.No.464 of 2021 (formerly I.A.No.733 of 2018 on the file of the Subordinate Court, Tambaram), without passing a final decree in favour of the revision petitioner.

2.The trial Court is now required to ascertain if the revision petitioner / defendant had paid necessary court fee and obtained a preliminary decree for her share in the suit property. Subject to this, the trial Court is directed to dispose of the application in I.A.No.464 of 2021 on or before 30.06.2022.

3.If however, no preliminary decree has been specifically passed in favour of the revision petitioner, then the trial Court may pass a preliminary decree on receipt of requisite court fee from the revision petitioner and thereafter



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proceed to dispose of I.A.No.464 of 2021. It is clarified that if no preliminary decree has been passed in favour of the revision petitioner already, the trial Court need not dismiss I.A.No.464 of 2021 for the present, for it may involve duplication of paper work at a later point of time. In such a situation, the trial Court may require the revision petitioner to pay the necessary court fee and only in the eventuality of the revision petitioner refusing to comply with the said direction, the trial court may proceed to dismiss I.A.No.464 of 2021.

4.The Civil Revision Petition is disposed of accordingly at the admission stage itself. No costs.

11.04.2022

Index : Yes/No

Internet : Yes/No

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Note: Office to issue order copy on 19.04.2022

To

The Subordinate Court, Alandur

N.SESHASAYEE, J.

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