



A.No.1893 of 2022

in

C.S.No.638 of 2018

C.V.KARTHIKEYAN,J.

I really must share the grief, which Mr.K.S.Narayanan, the father of the plaintiffs and the defendants would now be experiencing even though he is not in this world since, his three daughters and two sons have undertaken with much vigour, an affinity to litigate over every issue.

2. It is first projected that he executed a Will. That Will was tested and the same was found to be not genuine. Such proceedings ended adverse to his sons who are the defendants in the suit.

3.The sisters thereafter filed the present suit seeking partition and separate possession. They claimed that each one of them / three sisters are entitled to an undivided $1/5^{\text{th}}$ share and the balance $2/5^{\text{th}}$ should go to the two brothers.

4.A preliminary decree in that regard had been passed.



5.Now, this application has been filed seeking appointment of an Advocate Commissioner to take the matter forward to visit the property to determine, whether it is divisible in nature or to give a report or opinion as to how to satisfy the preliminary decree, which implies that the property of the father would have to be divided into five shares.

6.Questioning that preliminary decree and aggrieved that while drafting the decree there was some confusion whether the defendants were represented or whether they were set ex-parte or whether the contentions were addressed or not an Original Side Appeal appears to have filed in O.S.A.No.221 of 2022. It has not yet been admitted.

7.I am also informed that the defendants herein have now projected a second Will of their father and for all we know the father would still turn around in his grave regarding this particular aspect.

8.The plaintiffs have filed caveat and I am informed that they had raised objections for grant of probate of what can be termed as the second Will.



9.It is complained by the learned counsel for the plaintiffs / daughters that the defendants / sons are in possession.

10.I hold that there is no deterrent factor in proceeding further with appointment of an Advocate Commissioner.

11.Mr.M.Palanimuthu (Mob.No.9444153685 and 9940331356, No.95, Additional Law Chambers, High Court Building, Chennai – 600 104) is appointed as an Advocate Commissioner, to first visit the property and file an initial report before this Court, whether the property is divisible in nature or whether the parties can be compensated with monies worth. An initial remuneration of Rs.25,000/- (Rupees Twenty Five Thousand only) is fixed to be paid by the plaintiffs to the Advocate Commissioner.

12.Needless to point out, the Advocate Commissioner should issue notice to all the parties in the suit before proceeding further. It is again reiterated that only preliminary steps have directed to be taken by the Advocate Commissioner. There need not be actual division of the property or determination of the market value of the property.



WEB COPY



C.V.KARTHIKEYAN,J.

Smv

13.Let an interim report first be filed after the initial visit to the property. The warrant to be issued to the Advocate Commissioner by 30.09.2022 and an initial report to be filed before this Court by 20.10.2022.

14.Call on 20.10.2022.

22.09.2022

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Note:- Issue order copy on 29.09.2022.

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