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CRP.(NPD)No.1341/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2022

CORAM:

Mr. JUSTICE N.SESHASAYEE

CRP.(NPD)No.1341 of 2022
and C.M.P.Nos.7032 and 7935 of 2022

M.Ramalingam

... Petitioner

Vs

Bhuvaneswari Ramalingam (dead),

1.Jayalakshmi Pattabiraman
2.Anuratha Thanigainayagam
3.R.Vijayan

...Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the docket order dated 15.03.2022 passed in I.A.No.136 of 2014 in O.S.No.288 of 2005 on the file of the Mahila Court, Chengelpet.

For Petitioner : Mr.Sharath Chandran
For Respondents : Mr.G.Prabhakaran



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ORDER

This Revision is filed challenging the order of the trial Court passed in I.A.No.136 of 2014 in O.S.No.288 of 2005 for auctioning a certain property under Section 4 of the Partition Act.

2.Heard the learned counsel for the respondents. In the course of the final decree proceedings in a partition suit in O.S.No.288 of 2005, an Application was taken in I.A.No.136 of 2014 for sale of the property under the Partition Act. The Court has appointed a Commission but, literally has out sourced all its duty to the Commissioner. In other words, it did not even fix the upset price or had gone for proclamation and in the process has violated the ratio of the Judgement of the Division Bench of this Court in *Appu alias Subramania Patter Vs. O.Achuta Menon* [ILR 49 Mad 333], *Jagannathan Vs. Angamuthu Pillari* [AIR 1990 Mad 226] and the Judgement in *Ramaswami Naicker Vs. Nagammal* [83 LW 199].



3. Both sides made a joint statement that the procedure adopted is not consistent with law.

4.1 It is now evident that the order passed in I.A.No.136 of 2014 in O.S.No.288 of 2005 shall go. The Civil Revision Petition is accordingly allowed and the order passed in I.A.No.136 of 2014 in O.S.No.288 of 2005 is set aside and the matter is remanded back to the Mahila Court, Chengelpet for the Court to instruct the Commissioner appropriately and along the legal lines to enable the Commissioner to conduct the auction of the property. In particular, the trial Court is directed :

- (a) To appoint an engineer to assist the Commissioner to fix the value of the property;
- (b) To fix the base price for the property after hearing the parties to the litigation or their counsels;
- (c) To direct the Commissioner to come up with a schedule for public auction;
- (d) To decide on e-auction through popular private websites like 99acres.com, depending on the location and the marketability of the



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property.

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4.2 The parties can also bring in purchasers with their offers presented in a sealed covers, and to go for the highest price bidder. The trial Court is also directed to dispose of the matter within a period of six (6) months, which is to commence from 01.06.2022. No costs. Consequently, the connected miscellaneous petitions are closed.

28.04.2022

Index : Yes/No
Speaking Order/Non Speaking Order
Tsg/dk



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N.SESHASAYEE, J.,

Tsg/dk

To
The Mahila Court,
Chengelpet.

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