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A.Nos. 3121 & 3122 of 2022
in C.S.No. 714 of 2011

A.A.NAKKIRAN., J.

A.No.3121 of 2022 has been filed to pass a final decree in the above suit in pursuance of the preliminary decree dated passed in A.No.1044 of 2022 as per the Advocate Commissioner's report (Plan II).

A.No.3122 of 2022 has been filed to pass a final decree in the above suit in pursuance of the preliminary decree dated passed in A.No.1044 of 2022 as per the Advocate Commissioner report (Plan II).

2. The suit in C.S.No.714 of 2011 was filed for the relief of partition and mesne profits.

3. The plaintiff is the younger sister of the third defendant and the defendants 2 and 3 are brothers of the third defendant. The defendants 4 to 6 in the suit are the tenants in the suit property. Subsequently, the suit was decreed as ex-parte, pursuant to which, the learned Advocate Commissioner was appointed and he has also filed a report on 14.07.2021 containing Plan - I and Plan - II was submitted before this Court on 21.06.2021.



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4. By order dated 17.11.2021, this Court passed a final decree in terms of the preliminary decree passed in favour of the plaintiff in the suit. Subsequently, the first defendant in the suit has filed an application in A.No.1044 of 2022 to pass a preliminary decree in his favour. Accordingly, on 16.03.2022 a preliminary decree was passed in favour of the first defendant. Subsequently, on 16.03.2022 at the instance of the second defendant in A.No.1045 of 2022 was filed to pass a preliminary decree in his favour. Accordingly, on 16.03.2022 was filed an application by the second defendant and the same was allowed. Similarly, the third defendant herein has filed an application in A.No.1301 of 2022 and by order dated 24.03.2022, this Court passed a preliminary decree in favour of the applicant.

5. Now, the present applications are filed by the defendants 1 and 2 seeking to pass a final decree in terms of the preliminary decree. It is seen that the present applications are filed based on the order passed by this Court in A.No.1044 of 2022 in favour of the present applicants and in Para No.5 of the affidavits filed by the applicants in A.Nos.3121 & 3122 of 2022 states as follows:-



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"5. I further respectfully submit that in view of the preliminary decree passed in my favour in March 2022 in Application No.1045 of 2022, I am now filing this Final Decree Application for allotting my 1/4th share based on plan II of the advocate Commissioner's Report."

"5. I further respectfully submit that in view of the preliminary decree passed in my favour in March 2022 in Application No.1044 of 2022, I am now filing this Final Decree Application for allotting my 1/4th share based on plan II of the advocate Commissioner's Report."

6. The learned counsel for the respondents has no objection in allowing these applications.

7. Having regard to the averments made in the affidavits filed in support of these applications and the order passed by this Court passing final decree in favour of the plaintiffs and preliminary decree was passed in favour of the defendants 1 and 2, this Court is inclined to allow these applications as prayed for.



A.A.NAKKIRAN., J.

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8. Accordingly, there will be a final decree in favour of the ^{gv} applicants allotting the 1/4 share of the Applicants as per the Plan-II of the Report of the learned Advocate Commissioner, by dividing the Suit Schedule Property by metes and bounds, allotting the first defendant an extent of 903 sq.ft. bearing the boundaries D, E, G, H shown as the North-Western portion of the Suit Schedule Property therein in A.No.3122 of 2022 and also by dividing the Suit Schedule Property by metes and bounds, allotting the second defendant an extent of 927 sq. ft. bearing the boundaries E, F, H, I shown as the South-Western portion of the Suit Schedule Property therein in A.No.3121 of 2022.

9. In the result, both the applications are allowed.

02.08.2022

gv

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