



C.M.P.No.17791 of 2022

in

A.S.No.506 of 2020

S.SOUNTHAR, J.

The petitioners seeks a direction to permit him to withdraw the amount of Rs.35,56,511/- deposited in the name of the Registrar General, High Court of Madras through ICICI Bank, D.D.No.528865 dated 18.11.2021.

2. The petitioners filed a suit for partition in O.S.No.1496 of 2016 and obtained a preliminary decree for partition. As per the decree, each of the petitioners are entitled to 1/4th share in the 1st item of the suit property. The contesting 1st respondent is also entitled to 1/4th share in the 1st item of the suit property. The 1st item was in occupation of 2nd respondent Bank upto March 2019. In pursuance of the order passed by this Court, the 2nd respondent deposited a sum of Rs.35,56,511/- in the name of the Registrar General, High Court, in ICICI Bank, through D.D.No.528865 dated 18.11.2021, towards arrears of rent.



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3. Present application was vehemently opposed by the learned counsel for the 1st respondent on the ground even as per the clause 1 decree, the 1st respondent is entitled to 1/4th share in the suit property and consequently, he is entitled to 1/4th share in the rent deposited by the 2nd respondent.

4. On the other hand, the learned counsel for the petitioner submitted that the settlement deed relied on by the 1st respondent was disbelieved by the Court below. In the event of the petitioner's success in appeal, the petitioners are entitled to proportionate share in the rent already received by the 1st respondent to the tune of Rs.1,28,99,382/-. Therefore, the learned counsel for the petitioner submitted that by taking into consideration of the above said fact, the petitioner may be permitted to withdraw the entire amount deposited by the 2nd respondent.

5. The learned counsel for the 2nd respondent submits he deposited Rs.35,56,511/-in the name of the Registrar General, High Court of Madras in a fixed deposit for a period of three years.



6. In the circumstances of the case and balance of convenience this Court is inclined to permit petitioner to withdraw 3/4th of the amount deposited by 2nd respondent together with proportionate interest. The balance 1/4th of the amount together with proportionate interest shall be redeposited in fixed deposit in the very same bank, in the name of the Registrar General, High Court of Madras, initially for a period of 1 year, renewable periodically for the said period pending disposal of appeal.

15.11.2022

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