



A. Nos.985, 986 and 988 of 2022 in C.S. No.132 of 2013

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N.SESHASAYEE. J.,

A. Nos.985, 986 and 988 of 2022 were filed for amending the plaint, the final decree application and also the preliminary decree dated 03.01.2018 passed based on an additional extent noted by the Advocate-Commissioner in Schedule 'B' to the plaint.

2. The 'B' schedule property is an agricultural property, and it is described in the plaint as a block of 2.96 acres comprised in several survey numbers. This property originally belonged to one Kasthuri Mudaliar, and there is no dispute at this point of time and nor can there be a dispute over this. After the demise of Kasthuri Mudaliar, the parties to the suit have sold 37 cents in S. Nos.9/4 and 9/5. According to the plaintiff, this extent of 37 cents ought to be included to the extent of 2.96 acres shown in the plaint. He would further state that at the time when the suit was laid, the actual extent was not known as the property was not surveyed or measured at that point of time, and only after the Advocate-Commissioner's visit pursuant to the order passed in the final decree application, this fact emerged.



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3. Heard both sides.

4. This court perused the Advocate-Commissioner's report. So far as the extent as has been surveyed and found by the Commissioner is concerned, the defendants do not object. Their objection with regard to 'B' schedule property, essentially pertains to the mode of division suggested by the Commissioner and not over the extent.

5. The Commissioner has noted that Kasthuri Mudaliyar owned 3.02 Acres under Patta No.77. Out of this, during his lifetime, he had sold two plots measuring 13.5 cents and another 21 cents to strangers. This apart, another 5 cents was also kept aside for formation of a road in the lay out. The combined extent of these three items is 39.5 cents, and after deducting this extent of 39.5 cents from the total extent of 3.02 Acres, the balance extent available would be 2.625 Acres. Post demise of Kasthuri Mudaliyar, the parties have sold 37 cents in S. Nos.9/4 and 9/5, and this the Commissioner has added to 2.625 Acres, and arrived at the total extent of 'B' schedule property at 2.995 Acres. This court, therefore, finds that the extent of property in 'B' schedule can be amended only to the extent of additional 3.5 cents and not 37 cents.



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6. Accordingly, all these applications are allowed and the extent of 2.96 Acres in 'B' schedule property is directed to be amended as 2.995 Acres. The Registry is required to carry out necessary amendment to the schedule of property in the preliminary decree passed on 03.01.2018.

7. Post the matter on 14.02.2023.

02.02.2023

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