



C.S.No.55 of 2022

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**C.S.55 of 2022
&
O.A.No.184 of 2022**

N.SATHISH KUMAR, J.

This suit has been filed for partition of the suit property in to two equal shares by metes and bounds and allot one such share to the plaintiff.

2. The plaintiff is none other than the mother of the defendant. The defendant remained expte in the suit. This Court by Order dated 16.08.2022, passed a preliminary decree for partition of the suit property and an Advocate Commissioner has been appointed to effect partition of the property by metes and bounds and to file a report before this Court.

3. The report of the Advocate Commissioner indicate that the property has been measured in the presence of the parties and the defendant and his family members were also present at the time of the Advocate Commissioner measuring the property. The Advocate Commissioner has suggested division



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as narrated below :

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“The first plan divides for a common passage from east to west to an extent of 31 feet with a width of 10 feet on the south of the suit property and the remaining area is divided into 1231 sq.ft. and 1176 sq.ft. The second plan provides for a common passage from east to west to an extent of 56.6 feet, with a width of 10 feet to the South of the suit property and dividing the suit property into two shares comprising of 1050 sq.ft. and 1102 sq.ft. The suit property is 2717 sq.ft. I am of the opinion that the suit property can be divided into two equal shares considering its physical features. On considering the two options and considering the least damage to the existing building and its convenient divisibility, ease and convenient enjoyment of the property by both parties I opinion that the first plan will be more suitable, equitable and beneficial for both



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parties. Also considering the fact that the plaintiff granting access to the suit property through her property situated to the east of the suit property through an exclusive common passage measuring 10 feet x 20 feet and since the plaintiff is the owner of the property to the east of the suit which is an extent of about 1818.75 sq.ft. and taking a practical view I am of the opinion that the 'B' schedule in the first plan may be allotted to the plaintiff.”

It is also suggested that the existing electricity connection to the suit property falls within the 'B' schedule and the metro water connection to suit property falls in the 'B' schedule and 'C' schedule common passage.

4. Considering the nature of dispute and mother has filed the suit against the son, this Court is of the view that mode of division suggested by the Advocate Commissioner, 'B' schedule property suggested by the Advocate Commissioner in plan – I is allotted to the plaintiff with existing



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electricity and water connection and the defendant is allotted 'A' schedule property. The defendant is directed to secure fresh electricity connection and water connection and till the connection is secured, the defendant is permitted to use the existing connection and pay necessary charges on the basis of his utility. 5. Accordingly, final decree is passed in the above terms and the report of the Advocate Commissioner dated 19.10.2023 and the sketch attached to the report of the Advocate Commissioner shall form part of the final decree. No costs. Consequently, connected application is closed. The defendant is directed to pay necessary Court Fee for allotment of his share. For depositing Non Judicial Stamp papers to engross the final decree, two weeks time is granted.

20.10.2023

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20.10.2023