



C.S. No.177 of 2019

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A. No.3220 of 2021
in
C.S. No.177 of 2019

ABDUL QUDDHOSE, J.

This application has been filed for appointment of an Advocate Commissioner to inspect the suit schedule property and initiate sale proceedings by way of public auction and to deposit the sale proceeds to the credit of the suit in C.S. No.177 of 2019 pending on the file of this Court.

2. By order dated 27.04.2023 in A. No.3219 of 2021, the following directions were issued by this Court :

a) the respondents / defendants shall pay a sum of Rs.5,16,17,973/- (Rupees Five Crores Sixteen Lakhs Seventeen Thousand Nine Hundred and Seventy Three only) with interest at the rate of 12% per annum on the sum of Rs.2,74,51,579/- (Rupees Two Crores Seventy Four Lakhs Fifty One Thousand Five Hundred and Seventy Nine only) from the date of decree till the date of realisation.

b) The respondents / defendants are directed to pay the cost of the suit.



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c) This Court permits the applicant/ plaintiff to sell mortgaged property described in the schedule to the preliminary decree in C.S. No.177 of 2019.

d) The applicant/ plaintiff is permitted to apply the sale proceeds towards the principal amount, subsequent interest and cost.

e) This Court further directs that after adjusting the final decree amount, if any amount lying in excess over and above the final decree amount, the same shall be returned to the respondents / defendants within a period of three months.

3. Pursuant to the aforesaid order, the present application has been filed seeking for appointment of an Advocate Commissioner. Since the final decree has already been passed on 27.04.2023, necessarily, this application has to be allowed as prayed for. The respondents / defendants have already been set exparte in the suit.

4. This Court after giving due consideration to the contents of the affidavit filed in support of this application and in view of the fact that the respondents / defendants have not complied with the directions given by



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this Court on 27.04.2023 passed in A. No.3219 of 2021 is inclined to allow this application. Accordingly, this application (A. No.3220 of 2021) is allowed as prayed for by appointing Ms.V. Rani, (Enrl. No.Ms.1817/2013), Advocate at No.1, 1st Floor, Big St., Keelkattalai, (Near Lakshmi Narayanan Temple), Chennai – 600 117 (Mobile No.96770 54604) as Advocate Commissioner.

5. In view of the above, this Court passes the following order :

a) The learned Advocate Commissioner appointed by this Court shall inspect the schedule mentioned property and initiate sale proceedings by way of public auction. On effecting the sale, the learned Advocate Commissioner shall deposit the sale proceeds to the credit of this suit viz., C.S. No.177 of 2019.

b) The learned Advocate Commissioner is directed to place before this Court the draft terms and conditions of sale for this Court's approval and only thereafter proceed with the sale. The learned counsel for the applicant / plaintiff shall co-ordinate with the Advocate Commissioner for finalization of the draft terms and conditions of the sale which has to be placed before this Court.



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c) The learned Advocate Commissioner shall be paid an initial remuneration of Rs.25,000/- (Rupees twenty five thousand only), which shall be paid by the applicant. All the boarding, lodging and travelling expenses for the Advocate Commissioner shall be borne by the applicant.

6. Post the matter for filing of draft terms and conditions on 12.12.2023.

7. Registry shall issue the Advocate Commissioner's warrant in terms of this order.

23.11.2023

Note : Issue Order copy on 24.11.2023.

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