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A.No.2743 of 2016
in
CS No.522 of 2013

Reserved on: 30.01.2024

Delivered on: 09.07.2024

A.A. NAKKIRAN,J

This application has been filed under Section 4 of the Partition Act seeking for a direction to sell the 2/3rd share of the plaintiff to the defendant at the value of Rs.81,00,000/- or such price that may be determined by this Court.

2.The learned counsel appearing for the applicant submits that the Commissioner without applying his mind accepted the Engineer report and arrived at 2/3rd value at Rs.3,17,20,000/- out of Total value of Rs.4,75,80,000/- for the entire property. Since the assessment of value is disputed, further report was suggested from an approved valuer wherein M/s. Kingsway consultants filed a report fixing the value of the property of 2/3rd share as Rs.2,19,13,000/-. The respondent/plaintiff purchased the property in the year 2014 for Rs.75,00,000/-. Whereas, this Court may fix



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the value of the 2/3rd share by assuming that they incurred interest and stamp and registration expenses, as on date the property value arrives at Rs.89,61,360/- or 2/3rd value arrives at Rs.2,19,13,000/- according to a report filed by the approved valuer.

3.The learned counsel for the respondent submits that pursuant to the order dated 21.03.2018 passed by this Court, the Advocate Commissioner with the assistance of Engineer, has filed valuation report after assessing the property fixing the value of the suit property at Rs.4,57,80,000/- wherein the value of 2/3rd share of the suit property arrives at Rs.3,17,20,000/-. The Advocate Commissioner has fixed the value with the assistance of Engineer. In this regard, the applicant has not filed any appeal against the order dated 21.03.2018 passed by this Court and after considering the entire aspects and present scenario, the Advocate Commissioner with the assistance of qualified engineer filed the valuation report. At the time of calculation, no objection has been raised by the applicant. Hence, the fixation of the value as per the contention of the applicant is liable to be dismissed. Therefore, the application is liable to be dismissed.



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4. Heard both sides and perused the material available on record.

5. It is seen from the records that pursuant to the order dated 21.03.2018 passed by this Court, the Advocate Commissioner along with Engineer assessed the property and filed a report. As per the Engineer's Report, the total market value of the suit property is Rs.4,75,80,000/- and the 2/3rd share of the property is Rs.3,17,20,000/-.

6. In view of the report filed by the Advocate Commissioner with assistance of the qualified engineer, this Court is of the view that the amount of Rs.3,17,20,000/- fixed by the Advocate Commissioner for 2/3rd of the suit property is reasonable. Accordingly, the same is accepted. However, the amount of Rs.2,19,13,000/- quoted by the applicant is not accepted and liable to be rejected.



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A.A. NAKKIRAN, J.

Lbm/skn

7. Hence, this application is dismissed. No costs. Two months time is granted for the aforesaid payment to the respondent from the date of receipt of copy of the order.

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skn

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