



C.S.No.240 of 2019

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N.SATHISH KUMAR, J.

The suit has been filed for partition and now pending for passing of final decree. A preliminary decree was passed on 19.06.2019 declaring that the plaintiff is entitled to 1/4th share in the suit property and similarly, defendants 1 to 3 each are entitled to 1/4th share in the suit property. The preliminary decree has reached its finality. Thereafter, proceedings have been initiated for passing of final decree in the final decree proceedings.

2. An Advocate Commissioner has been appointed and he has filed a report indicating that the subject property is impartible. Once again, this Court by an Order dated 22.10.2021 has appointed Mr.K.Elango as an Advocate Commissioner to conduct public auction for sale of the immovable property. Pursuant to the direction of this Court, a public auction was conducted on 27.01.2022, wherein the defendants 1 to 3 as per the Partition Act participated in the public auction and they have been confirmed as successful bidder for a sum of Rs.11,55,00,000/-. These facts are not in dispute.

3. In the meanwhile, the appointment of the Advocate Commissioner to



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conduct sale was put in challenge before the Division Bench in OSA.No.20 to 24 of 2024 and by judgment dated 07.06.2023, the Division Bench of this Court has dismissed the appeal and confirmed the Order appointing Advocate Commissioner to conduct public auction. The Advocate Commissioner also filed a memo before this Court indicating the nature of the bid amount and the defendants 1 to 3 have become successful bidder for a sum of Rs.11,55,00,000/- and this Court has also directed the defendants to deposit 1/4th of the value of the property before this Court on 27.09.2023 in A.No.73 of 2022. The Advocate Commissioner has filed a memo seeking to confirm the sale.

4. Considering the nature of the property, which is immovable, and this Court has permitted the Advocate Commissioner to conduct public auction and the defendants have also offered to purchase the property for a sum of Rs.11,55,00,000/- and the sale has been conducted by the Advocate Commissioner appointed by this Court, this Court is of the view that the sale in favour of the defendants 1 to 3 has to be confirmed and the defendants 1 to 3 shall deposit 1/4th value of the sale proceeds less Rs.60,00,000/- already deposited by way of demand draft bearing No.071261 drawn on Indian



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Overseas Bank dated 21.01.2022. The remaining amount, less 1% TDS shall be deposited before this Court within a period of one month from today. On such deposit, the plaintiff shall execute necessary sale deed in favour of the defendants 1 to 3 within a period of one month thereafter. In the event, the plaintiff fails to executed the sale deed, the registry is directed to execute the sale deed in favour of the defendants 1 to 3. It is also made clear that while executing the sale deed, the plaintiff, who is said to be in possession of the suit property, shall hand over vacant possession of the property to the defendants.

5. Accordingly, final decree is passed and the sale in favour of the defendants 1 to 3 is confirmed. The defendants shall deposit the remaining sale consideration less 1% TDS as referred above within a period of one month from today. Considering the relationship between the parties, they shall bear their own costs.

14.02.2024

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