



A.No.1908 of 2024
in TOS.No.24 of 2021

P.B.BALAJI, J.,

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The present application has been taken out by the 5th defendant, the developer, with whom the testatrix had entered into a Development Agreement and also Supplementary Agreement. In terms of the said agreement, the developer was entitled to 8 flats and the remaining 18 flats were go to the deceased, testatrix.

2. According to the developer, construction has been completed in February 2019 and Completion Certificate has also been obtained. Even during the lifetime of the testatrix, 4 flats were sold. However, in view of the demise of the testatrix, the remaining 4 flats were not in a position to be sold. Hence, the developer approached this Court in A.No.2748 of 2023 and this Court, by an order dated 01.12.2023, permitted the developer to sell the 4 flats and also appointed a Commissioner in that regard.

3. However, the present application has been filed expressing certain reservations in the order, where the entire sale proceeds of four flats as directed to be deposited in an interest bearing account, till disposal of the suits. It is nobody's case that the sale consideration of 4 flats which are to be sold by the developer has to come into the estate of the deceased testatrix



and the said sale proceedings are the entitlement of the developer in terms of the Joint Development Agreement and also the Supplementary Agreement.

4.The learned counsel for the respondents have no objection for the order being suitably modified and I am also satisfied with the reasons assigned in the affidavit in this regard. This application is allowed and the order in A.No.2748 of 2023 dated 01.12.2023 is modified deleting the lines “However, the entire sale proceedings of four flats are directed to be deposited in an interest bearing account till the disposal of both the suits” in para 16, and the lines, “Learned Administrator is at liberty to open an interest bearing account in TOS.No.24 of 2021 and C.S.No.252 of 2022 in Indian Bank functioning in the premises of this Court” in para 17.

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