



A.No.1578 of 2024 in C.S.No.57 of 2019

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C.V.KARTHIKEYAN,J.

This application has been filed by the plaintiffs seeking to appoint an Advocate Commissioner to divide the property morefully described in the schedule to the plaint by metes and bounds and in the ratio of 66.20% in favour of the plaintiffs and 33.80% in favour of the defendants. The property is land measuring 27 grounds and 239 sq.ft., at Door No.38, East Mada Church Road, Royapuram, Chennai – 600 013. There are twelve sheds in the said property.

2.A learned Single Judge of this Court by judgment dated 31.10.2023 had passed a preliminary decree in the suit. It had been declared that the plaintiffs are entitled to 66.20% of share in the schedule mentioned property and that 1st to 7th defendants are entitled to remaining 33.80% of share in the schedule mentioned property.

3.A memo had been presented on behalf of the plaintiffs giving the rough sketch of the property.



4.In the counter affidavit that had been filed on behalf of the 5th and 7th defendants, it had been stated that efforts were taken to secure a purchaser, to purchase the property, but though negotiations proceeded to a considerable extent, ultimately, owing to differences among the parties to the suit, the sale could not proceed further. The only alternate is to appoint an advocate commissioner to give a report, whether the property can be divided in the ratio aforementioned or not.

5.There are two separate views, which are presented. The learned counsel for the plaintiffs stated that the properties could be divided without any disadvantage to any of the parties, taking into consideration the fact that the frontage towards the road is about 126 feet. Let those issues be examined by the learned Advocate Commissioner.

6.Accordingly, Mr.S.Prakash, MS.2374/22014, No.103, 2nd Floor, Armenian Street, Parrys, Chennai – 1, Mobile No.9444005375, is appointed as Advocate Commissioner, who may take the assistance of an engineer to inspect the property and after issuing notice to the parties concerned. He may file a report giving an opinion, as to whether the property could be divided into two shares namely, 66.20% on one share and balance of 33.80% on the other share. The report may be presented before



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this Court on 18.07.2024.

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7.The initial remuneration of the learned Advocate Commissioner would be Rs.50,000/-. The said amount to be paid to the learned Advocate Commissioner in the ratio of 2/3 by the plaintiffs and 1/3 by the defendants. If the assistance of the engineer is sought, then that payment would be independent of this particular payment.

8.A further plan may be given by the learned Advocate Commissioner to examine whether the property could be divided in the ratio of 73.20% and 26.80%, since the 2nd defendant has filed a counter stating that 7% share which is to be allotted to the 2nd defendant could be clubbed with the share to be allotted to the plaintiffs. Hence, two separate plans may be furnished by the learned Advocate Commissioner.

9.Call on 18.07.2024.

25.06.2024

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Note: Registry to issue warrant to the Advocate Commissioner.



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