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C.R.P.No.1324 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.1324 of 2016

and

C.M.P.No.7416 of 2016

1.K.Sekar (Died)

2.S.Nirmal Kumar

3.S.Pravin Kumar

4.S.Sundari

5.S.Vidya Rajeswari

.. Petitioners

(P2 to P5 are brought
on record as LR's of
the deceased P1 viz.,
K.Sekar vide Court
order dated
21.01.2022 in
CMP.No.1050 and
1051 of 2018 in
CRP(NPD)No.1324
of 2016 by VMVJ)

Vs.

Sadhika Begum (Deceased)



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1.Nasreen Zehra Syed

2.Yasmeen Zehra Syed
represented by Power Agent,
Nasreen Zehra Syed

3.Asiya Khatoun

4.Syed Mohammed Aamer

5.Syed Mohammed Adil .. Respondents

Prayer : The Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, to set aside the fair and decreetal order dated 06.08.2015 passed by the learned XVI Assistant Judge, City Civil Court, Chennai in I.A.No.11173 of 2006 in I.A.No.12078 of 2005 in O.S.No.2335 of 1982.

For Petitioners : Mr.H.Surendar

For RR1 & 2 : M/s.Vasudha Thiagarajan

For RR3 to 5 : Disd. vide order dated 10.02.2023

ORDER

In an application filed under Section 4 of the Partition Act, the learned trial Judge had directed for the appointment of an Advocate Commissioner to inspect the property and submit a report. There is no order which has been granted by the Court directing the sale of the property by one sharer to the other. It is only such an order which is susceptible to an appeal and that too, before the Additional City Civil



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Court, Chennai.

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2. By this present impugned order, by appointing an Advocate Commissioner for inspecting the property and submitting a report, the Court has not decided any issue.

3. Incase, the petitioner is aggrieved by the order passed in I.A.No.11173 of 2006, it is always open to him to file an appeal against such a proceeding. As such the present revision is not maintainable. Taking into consideration that the suit has been pending for the past 44 years, the learned XVI Assistant City Civil Judge is directed to get the report from the Advocate Commissioner and pass order in the application as early as possible.

4. Incase, the Advocate Commissioner has not submitted a report, it is always open to the Court to give a direction to the Advocate Commissioner to submit a report at the earliest. If despite such a direction the Advocate Commissioner does not execute the warrant, then the Court will recall its warrant and issue a fresh warrant to another Advocate Commissioner for the purpose of submitting a report.



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WEB COPY 5. This exercise must be completed within a period of two months from today. With the above directions, the Civil Revision Petition stands dismissed. Consequently, connected Civil Miscellaneous Petition is closed.

01.04.2024

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

To

The XVI Assistant Judge, City Civil Court,
Chennai

V. LAKSHMINARAYANAN, J.



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