



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 26.06.2024

Pronounced on: 12.07.2024

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A.No.4156 of 2018

in

C.S. No.610 of 2013

P.B.BALAJI, J.

A.No.4156 of 2018, is taken out by the applicants/plaintiffs, seeking a direction to respondents 2 to 4 and 7 to 12 to jointly pay the amount fixed by this Court, being the value of 1/4th share over Item I of the suit schedule property from and out of the Court deposit in HMGOP No. 11 of 2011 on the file of the City Civil Court, Chennai.

2. I have heard Mr. K.V.Babu, learned counsel for the Applicants and Mr.C.Shankar, learned counsel for the respondents 2 to 4, 7, 8, 13 to 16 and Mr.M.Bakthavatsalam, learned counsel for the respondents 1, 5 & 6 and the learned Advocate Commissioner, Mr.M.Palanimuthu.

3. The learned counsel for the applicant, Mr.K.V.Babu, would submit that the suit was initially filed for partition and separate possession of two Items of property, viz., Item No. I, Door No. 202, Paper Mills Road, Perambur, Chennai – 600 011. Item No. II, Old Door No.94, New Door No.104, Madhavaram High Road, Perambur, Chennai – 600 011 after



seeking a declaration of partition deed dated 27-02-2002, Settlement Deed dated 09-07-2008 and Sale Deed dated 29-08-2011 as null and void. He would further submit that the property situate at Door No. 202, Paper Mills Road, Perambur, Chennai – 600 011, being Item 1 is a residential property comprising 1 ground 294 sq.ft. whereas Item II is a property measuring 3 3990 sq.ft. as per document and 4222 sq.ft. as per physical measurement together with superstructure built thereon.

4. He would further submit that a preliminary decree was granted by this Court on 31-01-2018 holding that the partition deed dated 27-02-2002, settlement deed dated 09-07-2008 and sale deed dated 29-08-2011 were not valid and binding on the plaintiffs and granted a preliminary decree for 1/4th share in favor of the plaintiffs.

5. In the judgment, this Court had observed that the 1/4th share of the applicants/plaintiffs over Item II of the suit property shall be realized from and out of the sale proceeds of Item II of the suit property in favour of respondents 13-16. The learned counsel would further submit that the respondents 13-16 have already deposited a sum of Rs.53,22,000/- before the Principal Judge, City Civil Court, Chennai where permission was granted



to sell the minor's share. The said amount of Rs.53,22,000/- is available in Court deposit before the City Civil Court at Chennai.

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6. The learned Advocate Commissioner has filed a report in respect of Item II, wherein he has fixed the market value of the property at Rs.5,86,32,000/- basing his valuation on a registered sale deed dated 11-08-2023 which pertains to property situate at New No. 80, Old No. 310, Paper Mills Road, Perambur, Chennai – 600 011, measuring 1701 sq ft.

7. Admittedly the plaintiffs are entitled to a 1/4th share being the legal representatives of the late S.Shanmugam and 1/4th share of the amount payable in respect of said Item II property is Rs.1,46,58,000/-. Admittedly a sum of Rs.53,22,000/- is available in Court deposit and even if the entire sum of Rs.53,22,000/- is paid out to the Applicants/plaintiffs, still there is always a balance of Rs.93,35,800/- which would be payable to the Applicants. At the same time, the 1/4th share of the Applicants/plaintiffs' is, as on date, intact and if the respondents 13 to 16, who own the remaining 3/4th share already, or interested in buying the 1/4th share of the Applicants, liberty is granted to them to move this Court for suitable directions, subject of course being ready to pay the balance of Rs.93,35,800/- to the Applicants,



in which event the Applicants/plaintiffs shall be entitled to payment out of
Rs.53,22,000/-.

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8. In fine, this Application is disposed of with the above reasons set out as per paragraph No.7.

9. After pronouncing orders, the learned counsel for the applicant submits that some time frame may be fixed for the respondents 13 to 16 to revert as to their willingness to purchase the remaining 1/4th share in item No.2.

10.The learned Advocate Commissioner also brings to my notice that the defendants have not paid their due share of the remuneration as directed by this Court. Hence, the defendants shall ensure that the amounts due and payable to the learned Advocate Commissioner by way of remuneration shall be settled within a period of one week from today.

11.Post the matter on 26.07.2024.

12.07.2024

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P.B.BALAJI,J.

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Pre-delivery Order in

A.No.4156 of 2018

in

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(1/2)

12.07.2024