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A.No.3382 of 2024
in C.S.No.168 of 2022

C.V.KARTHIKEYAN, J.

This application has been filed by the defendant in the suit seeking payment out of a sum of Rs.1,08,00,000/- which had been deposited in the credit of the above suit by the plaintiffs consequent to a decree which had been passed in the suit on 04.03.2024.

2.The suit had been filed seeking specific performance of an agreement of sale dated 04.12.2021. The total sale consideration was Rs.1,58,00,000/-. An advance of Rs.50,00,000/- had been paid and the balance sale consideration had been deposited into Court by the plaintiffs. Now, the defendant seeks payment out of the said amount. But however, the obligation on the defendant is to execute the sale deed in accordance with the decree. Simultaneously on execution of the sale deed, this amount can be taken by the defendant and will be paid by the Registry to the defendant. But there cannot be payment out as that would not be any guarantee that the defendant would actually come forward to execute the sale deed.

3. A counter has been filed raising apprehensions about the bonafide of the nature of the application.



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4. It is also stated that the plaintiffs have filed execution petition.

5. It is for the defendant now to come forward to execute the sale deed and simultaneously also receive the amount which has been deposited in Court. But the payment out cannot be prior to execution of the sale deed. It has to be simultaneous along with execution of the sale deed.

6. In view of the above, this Application stands dismissed.

19.07.2024

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