



A.Nos.3186 & 3187 of 2024

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in C.S.No.153 of 2023

C.V.KARTHIKEYAN, J.

These two applications have been filed by the actual co-owners, who should have been impleaded when the suit was filed, now to seek themselves to be impleaded as further defendants in the suit.

2. The suit had been filed by the two daughters and wife of the defendant, seeking partition and separate possession of totally 2/3rd share of the properties which have been described in the Schedule to the plaint. The first item in the Schedule is house and land at Mylapore, measuring about 2,240 Sq.ft. The plaintiffs claim that the plaintiffs and the defendant are entitled to an undivided one half share of the land in that particular property. The other half share will naturally go over to the brother of the defendant, who has filed one of the impleading applications and to the son of the yet another brother. The plaintiffs should have impleaded these applicants at the time when they had filed the suit for partition, particularly when they had included Item No.1. It is poor argument to advance that since only undivided one half share of the land has been mentioned in the Item No.1 in Schedule A of the property, the present applicants need not have been impleaded. But



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they are necessary parties to decide which is the one half undivided share to which the undivided share of the plaintiffs would fall.

3. It is claimed that the applicants are also in possession of the ground floor of the building. In view of those facts, since admittedly the applicants herein have some right and an undivided share atleast over Item No.1 of the A Schedule property, both the applications are allowed.

4. Learned counsel for the plaintiffs to carry out necessary amendment in the plaint impleading the present applicants as further defendants and also file amended plaint copy.

11.07.2024

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