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Orders Reserved on
19.09.2024

Orders Pronounced on
29.10.2024

A.No.4051 of 2024
in
C.S.No.599 of 2019

RMT. TEEKAA RAMAN., J.

The petitioner is the applicant herein.

2. This application has been filed under Order XIV, Rule 8 of O.S.Rules under Section 151 of C.P.C

3. The plaintiff filed the above C.S.No.599 of 2018 for partition, claiming 1/4th share of the scheduled property. Pending the suit, the matter is now before the learned Master for recording of evidence. Now, the petitioner has filed the present application to carry out the repair, renovation and development works of Item V of the plaint 'B' schedule properties, by investing the required funds and continuing to manage it with full authority along with a charge on its assets until the petitioner's investment is fully recovered from the assets' revenues, including interest at 12% per annum and a nominal remuneration to be fixed by this Court.



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4. In a suit for partition, one of the parties wanted to do repairs and invest the amount. He wanted to create a charge over the asset and have full authority even though he only has a 1/4th right in the property with an interest rate of 12%. As a result, the respondents were directed to file a counter. The second respondent, V.Sreemanikandan, filed a counter stating that the repairs mentioned in the work are unnecessary. He also submitted photographs showing that the Kalyana Mandapam is in good condition and made various counter claims at Para Nos.7, 9, and 11 of the counter.

5. Reply affidavit has been filed by the petitioner. In the said reply, at Para 11, the petitioner has stated that “The Hon'ble Court may appoint such a person to assess the condition of the building if it so deems fit and necessary. However, the cost should be caused the same as it is only for pay that the second respondent has to bear the cause and he is not willing to prepare the payment of costs for appointment of qualified person to assess the condition of the building and to suggest the tasks to be carried out.

6. As per the affidavit, the building needs repair and various items has been mentioned at Para No.14 (a) to (m) and at Para No.17 (a),(b),(c) and (d) and hence, the petitioner is not willing to pay Advocate Commissioner for the qualified person for assessment of the building.



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7. In view of the disputed fact, the same cannot be determined without assistance. As the petitioner has not shown interest in such a position, this Court is unable to grant any order in favour of the petitioner.

8. In this view of the matter, this application is dismissed. The learned Master shall proceed with the case and complete the evidence within a period of eight weeks from the date of receipt of a copy of this order.

29.10.2024

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nvi

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