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S.A.Nos.875 & 876 of 2017 and
C.M.P.No.22038 of 2017

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P.B.BALAJI, J.

Mr.M.S.Subramanian, the learned counsel for the first respondent had mentioned this matter subsequent to the pronouncing of judgment and at his request this matter has been listed under the caption 'for being mentioned'.

2. I have heard Mr.M.S.Subramanian, the learned counsel and he would clarify that he has appeared only for the contesting first respondent and not for both the respondents. Therefore, references to him appearing for both the respondents should be modified. That apart, he would also bring to my notice that the entire sale consideration was already paid before the appellate Court and therefore, the direction to deposit/pay the balance sale consideration does not arise.

3. Mr.R.Jayaprakash, the learned counsel for the 2nd respondent also admit to this factual position. Hence, the judgment dated 01.03.2024 is modified in the following manner:

i) At all places referring to Mr.M.S.Subramanian, it shall be read as “he is representing only the first respondent and not the 2nd respondent”. Accordingly, the following corrections shall be incorporated in the judgment:



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Instead of

"Mr.M.S.Subramanian, the learned counsel for the respondents"

it should be corrected as,

"Mr.M.S.Subramanian, the learned counsel for the first respondent"

ii) In the appearance portion of the judgment shall be corrected as follows:

Instead of

"For Respondents : Mr. M.S.Subramanian"

it should be corrected as,

"For R1 : Mr.M.S.Subramanian

For R2 : Mr.R.Jayaprakash"

iii) In view of the fact that entire sale consideration had already been paid and there being no dispute with regard to the same, the following corrections shall be incorporated in the judgment:

In paragraph No.26, instead of

"(i) S.A.No.875 of 2017, is partly allowed subject to the following conditions:-

(a) If the plaintiff elects to take the said 1/4th undivided share of



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the first defendant alone and relinquishes all his claims for performance of the remaining $3/4^{\text{th}}$ undivided share of the suit property, besides also relinquishes all his right to compensation as against the defendants, by filing an affidavit to this effect, within two weeks from today, then there shall be a decree for specific performance of a part of the agreement of sale viz., $1/4^{\text{th}}$ undivided share of the first defendant alone and the plaintiff shall pay/deposit the balance sale consideration of Rs.2,80,000/- within eight weeks from the date of the receipt of the copy of this judgment.

(b) On such deposit, in the event of the first defendant not coming forward to execute the sale deed in respect of his $1/4^{\text{th}}$ undivided share, then the plaintiff is entitled to execute this decree in accordance with law. However, it is made clear that this decree would not entitle the plaintiff to seek possession of the suit property and consequent upon obtaining a sale deed in respect of the first defendant's $1/4^{\text{th}}$ undivided share either directly from the first defendant or through Court process, then it would be open to the plaintiff to seek for partition and separate possession of his $1/4^{\text{th}}$ share as against the other defendants.”



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it should be corrected as,

"(i) S.A.No.875 of 2017, is partly allowed subject to the following conditions:-

(a) If the plaintiff elects to take the said 1/4th undivided share of the first defendant alone and relinquishes all his claims for performance of the remaining 3/4th undivided share of the suit property, besides also relinquishes all his right to compensation as against the defendants, by filing an affidavit to this effect, within two weeks from today, then there shall be a decree for specific performance of a part of the agreement of sale viz., 1/4th undivided share of the first defendant alone.

(b) In the event of the first defendant not coming forward to execute the sale deed in respect of his 1/4th undivided share, then the plaintiff is entitled to execute this decree in accordance with law. However, it is made clear that this decree would not entitle the plaintiff to seek possession of the suit property and consequent upon obtaining a sale deed in respect of the first defendant's 1/4th undivided share either directly from the first defendant or through Court process, then it would be open to the plaintiff to seek for partition and separate possession of his 1/4th share as against the other defendants."



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4. Registry is directed to carry out necessary corrections in the judgment dated 01.03.2024 and issue fresh judgment copy.

08.03.2024

dpa

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