



A.Nos.348 & 346 of 2024

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in C.S.Nos.142 & 144 of 2022

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N.SATHISH KUMAR, J.

These applications are filed seeking for appointment of Advocate Commissioner to note down the physical features of the properties and particularly, any alterations being carried out in the suit property.

2. The suits have been originally filed for recovery of possession on the basis of the sale deeds executed in favour of the plaintiff by the first defendant. The plaint proceeded as if that the sale is executed and completed, but, possession has not been handed over by the first defendant and he remained in possession, hence, the suits came to be laid. After appearing before the Court in the suit, the first defendant took applications in A.Nos.4625 & 4626 of 2022 to reject the suit mainly on the ground that since the sale deeds contains recital as to handing over the possession, the plaintiff case cannot be relied upon. Those applications came to be dismissed by this Court, by order dated 20.09.2023. It is also the stand of the first defendant that at present, he is not in possession of the suit property. In view of such stand taken, the plaintiff has impleaded the third defendant, who is also claiming to be in possession of the property. The third defendant is also represented by some counsel, one Mr.Ramkumar in the last hearing. However, Vakalat has not been filed so far. The first defendant



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having filed an application to reject the plaint remained as a mute spectator in the proceedings. The sale of the property in favour of the plaintiff by the first defendant is not in dispute, the dispute is with respect to recovery of possession. Even the stand of the first defendant is that he is not in possession and now, the third defendant is also impleaded by the plaintiff to show that they are also in the possession of the property. Now the contention of the learned counsel for the plaintiff is that after filing of the suit and suffering orders in applications, now, there is an attempt to make alterations in the suit properties, therefore, only in order to bring forth the facts before the Court to note down the physical features, the applications have been filed for appointment of Advocate Commissioner.

3. Considering the nature of the suit filed, the defence taken and the plaintiff being the purchaser of the property legally and the sale is also not in dispute, now the suit has been filed for recovery of possession. At this stage, this Court is of the view that as rightly contended by the learned counsel for the plaintiff, the physical features of the property has to be noted down and placed before this Court for effective adjudication. Further, it is not in dispute that the property is a commercial property. The Commissioner shall also note down who is in occupation of the suit properties and the report of the Advocate Commissioner will enable the Court for proper adjudication.



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4. Such view of the matter, this Court appoints Mr.Muthuccharan Sundresh, [Enrl. No.2892/2018] No.244, Ragendra Garden, Vettuvankeni, Chennai – 600 041, Mobile No.73972 61623 as an Advocate Commissioner to visit the suit properties and note down any alterations being carried out, besides, he is also requested to note down the nature of the occupation and business carried out in the premises and whether such business is carried out by the first defendant or third defendant or others. The fee of the Advocate Commissioner is fixed at Rs.50,000/- and the Commissioner shall visit the suit property and file a report before this Court on 14.03.2023.

5. Accordingly, these applications are ordered. Post on 14.03.2023.

27.02.2024

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