

ORDER ON I.A.9 FILED UNDER SECTION 151 OF CPC

I. Background of the case:

1.1 The present suit is filed by the plaintiff for partition and separate possession of her alleged share in the suit schedule properties. During the pendency of the suit, the compensation amount received in respect of acquisition of certain portions of the suit schedule property has been deposited before this Court by the concerned authority.

1.2 The present application is filed by the defendant No.5 under Section 151 of CPC seeking release of the amount deposited in R.O/ Judicial Deposit No.52/2015-16 dated 19.06.2015 in LAC No.24/2015, amounting to Rs.56,37,500/- in his favour.

II. Facts stated in the application:

2. It is the case of the defendant No.5 that defendant No.6 has deposited the compensation amount before this Court in respect of acquisition of the land. It is contended that defendant No.5 is the absolute owner of the acquired property and has exclusive right over the compensation amount.

2.1 It is further contended that though the present suit is filed for partition and separate possession, the said compensation amount does not belong to the plaintiff and the defendant No.5 is entitled to receive the same. The defendant No.5 submits that he requires the said amount for his financial necessities and is ready to furnish bank guarantee/security to the satisfaction of this Court.

2.2 The defendant No.5 further undertakes that he will deposit the amount back before this Court as and when directed by this Court depending upon

the final outcome of the suit. Hence, it is prayed to release the deposited amount in his favour.

III. Objections filed by the plaintiff:

3. The plaintiff has filed objections opposing the application.

3.1 It is contended that the present suit is one for partition and separate possession and the compensation amount deposited before this Court is also connected with the suit schedule property and the rights of the parties are yet to be adjudicated.

3.2 The plaintiff contends that she has claimed her share in the suit properties and consequently she is also entitled for a proportionate share in the compensation amount.

3.3 It is further contended that if the entire amount is released in favour of defendant No.5, there is a serious possibility that the amount may not be available for recovery in case the plaintiff succeeds in the suit.

The plaintiff submits that mere furnishing of bank guarantee cannot be a ground to release the amount and prays for dismissal of the application.

4. Heard the learned counsel for both parties. Perused the records.

IV. Points for consideration:

- 1. Whether the petitioner/defendant No.5 has made out grounds for release of the compensation amount deposited before this Court?*
- 2. Whether the interest of the plaintiff requires protection while considering the application for release of the amount?*

V. Findings:

Point No.1 and 2: In the affirmative partly, for the following reasons:

5. It is not in dispute that an amount of Rs.56,37,500/- has been deposited before this Court towards compensation relating to acquisition of the property. The said amount is connected with the suit schedule property and the entitlement of the respective parties over the said amount is dependent upon the adjudication of the present suit.

5.1 The contention of defendant No.5 that he is the absolute owner of the property and therefore exclusively entitled to the compensation amount cannot be decided conclusively at this stage. The respective rights and shares of the parties are yet to be determined in the suit.

5.2 However, keeping the entire amount under deposit till conclusion of the proceedings may also cause hardship to the person claiming interest over the property. The defendant No.5 has expressed willingness to furnish security and undertake to comply with the orders of this Court.

5.3 At the same time, the apprehension expressed by the plaintiff cannot be ignored. The plaintiff has claimed share in the suit properties. In case the plaintiff succeeds in establishing her right, recovery of the corresponding share from defendant No.5 may become difficult if the entire amount is released.

5.4 Therefore, while considering the rival interest of both parties, this Court is of the opinion that the interest of justice would be met by protecting the plaintiff's claimed share and permitting release of the remaining amount.

5.5 The plaintiff has claimed 1/5th share in the suit properties. The said share in the compensation amount requires to be safeguarded till disposal of the suit. The said amount need not be retained in Court deposit and can be secured by way of Fixed Deposit in a Nationalised Bank so that the amount remains protected and fetch some interest on it. The remaining amount can be released in favour of defendant No.5 subject to conditions.

5.6 Accordingly, the application deserves to be allowed in part. Consequently, I proceed to pass the following;

ORDER

The application filed by the applicant/defendant No.5 under Section 151 of CPC is allowed in part.

1. Out of the compensation amount of Rs.56,37,500/- deposited in R.O. Judicial Question No.52/2015-16 dated 19.06.2015 in LAC No.24/2015, the amount equivalent to the plaintiff's claimed 1/5th share shall be kept in Fixed Deposit in any Nationalised Bank till further orders of this Court.

2. The remaining amount shall be released in favour of defendant No.5 subject to defendant No.5 furnishing an undertaking before this Court that he shall abide by the final decree and shall deposit/refund the amount as may be directed depending upon the result of the suit.

3. It is made clear that the release of the amount shall not create any equity in favour of defendant No.5 and the same shall be subject to the final adjudication of the suit.

4. Office is directed to take necessary steps accordingly.

(Dictated to the Stenographer on computer, typed by her, revised, corrected and then pronounced by me in the open Court on this the 23rd day of June, 2026.)

Prl. Senior Civil Judge & J.M.F.C

Devanahalli.