

ORDERS REGARDING PAYMENT OF COST.

As the defendant No.4 filed written statement after sufficient delay, it was allowed on cost of Rs.800/-. Further dispute arose as to whom the said cost must be paid. Hence, this order became necessary.

2. The defendant No.4 claimed 1/4th share in the suit properties. The plaintiff is also claiming 1/4th share in the suit properties. Thus there is no conflicting interest between the plaintiff and defendant No.4. The defendant No.1 filed written statement claiming 1/4th share and hence there is no conflicting interest between defendant No.1 and 4. It is the defendant No.3 who disputed the claim of the plaintiff and alleged that there is a will and that beneficiary under the will is not party to the suit. Hence, conflicting interest arises between defendant No.3 on one side and other defendants and plaintiffs on the other.

3. As this is a suit for partition and separate possession, the rank of the parties is inconsequential, and as all of them stand on the same pedestal while claiming share. Only the conflict of interest has to be considered, so as to order payment of cost to compensate the hardships of the party having conflicting interest. If there was no objection from the defendant No.3 as alleged in his Written Statement, then the suit could have been disposed off by passing judgment on admission, itself goes to show the importance of conflicting interest. **Hence, cost shall be paid to the defendant No.3 by**

defendant No.4 in respect of cost awarded on 09.07.2019.

With this opinion it is ordered accordingly.

(Dictated to the stenographer directly on the computer, typed by her corrected, initialed and then pronounced by me in open Court on this the 20th day of July 2019).

(Ganapathi Prashanth.M)
Senior Civil Judge & JMFC,
Nanjangud.