



C.S.No.520 of 2013
and O.A.Nos.132 and 133 of 2015

WEB COPY **P.B.BALAJI. J.,**

Today, when the matter is taken up for hearing at the Chamber, all the parties to the suit are present. After prolonged deliberations, the parties have agreed to have a preliminary decree passed in respect of item Nos.1, 5 and 6 of the suit schedule properties. In respect of the properties at 2, 3 and 4, there is a claim under an alleged Will.

2.Mr.S.R.Raghunathan, learned counsel appearing on behalf of the plaintiffs would strongly contend that as on date, the Will has not been lodged for probate or letters of administration and any application proposed to be filed would be barred by limitation.

3.Be that as it may, the right of the propounder to project the Will in respect of item Nos.2, 3 and 4 cannot be scuttled at this point of time and hence, in respect of these items, the partition suit shall be proceeded with. In respect of item No.7, the defendants have pleaded that there is a registered release deed, in and by which, shares of the brothers have been released in favour of the 2nd defendant – R.Srinivasan. This is a matter for trial and it is for the defendants to

<https://www.mhc.tn.gov.in/judis> prove the said release deed executed in favour of the 2nd defendant, including



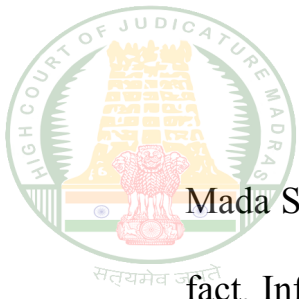
the release said to have been executed by the deceased 1st plaintiff. Therefore, in respect of this property also, the suit for partition shall proceed.

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4.According to the defendants, in respect of the items Nos.8 and 9, the said properties are not available for partition. Therefore, the defendants who have taken such a stand have to necessarily prove the same. Thus, in respect of the item Nos.8 and 9 also, the suit shall proceed.

5.In so far as the admitted shares are concerned, in respect of item Nos.1, 5 and 6, in view of the preliminary decree passed today, with the consent of the parties, who are all physically present today, it is also mutually agreed in principle that a valuer shall be appointed by this Court, who shall value the properties, item Nos.1, 5 and 6 and the valuation furnished by the said valuer shall be accepted by them without any demur or protest and the parties shall on the valuer filing his report accordingly take further decisions in so far as either payment of money in lieu of the share of the plaintiffs or in any other manner, so as to compensate the plaintiffs to such share by way of allotting properties.

6.At this stage, Mr.S.R.Raghunathan, the learned counsel for the plaintiffs pointed out that the address of the item Nos.5 and 6 has been incorrectly mentioned as being situated in 'West Mada Street' instead of 'North



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Mada Street'. The learned counsel for the defendants fairly conceded to the said fact. Infact, the parties have also accepted that the properties mentioned in item Nos.5 and 6 are situated only at North Mada Street.

7.The learned counsel appearing on behalf of the plaintiffs is at liberty to take out appropriate application for amendment of the plaint, subsequent to which, the preliminary decree shall be drafted.

8.Mr.B.Venkatramani, M/s BVe Consulting Engineers, Flat No.1, Ground Floor, New Door No.4, Old Door No.4, 77th Street, 16th Avenue, (Behind Lakshmi Hall), Ashok Nagar, Chennai – 600 083, Mob.No.8939752281 is appointed as a valuer, who shall inspect the properties in item Nos.1, 5 and 6, after giving notice to all the parties.

9.Considering the fact that in so far as item Nos.1, 5 and 6, pending suit, some of the sharers have passed away, the share of the plaintiffs enlarges to 1/7th and therefore, there shall be a preliminary decree in respect of item Nos.1, 5 and 6 declaring the plaintiffs' share as 1/7th. It is also made clear that the valuer, so appointed by this Court shall not wait for the preliminary decree to be issued by the Registry and shall proceed with the inspection and valuation of the property, after giving notice to the parties. The parties shall also render full

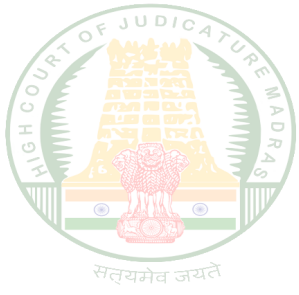


cooperation to the valuer, while carrying out the inspection. The valuation report shall be filed before this Court within a period of eight weeks from the date of inspection. The costs of the valuer shall be borne by the parties proportionately according to their respective shares.

10.Post the matter before this Court after receipt of the report of the valuer.

31.07.2024

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