

Common Form 42 – ORDER FOR PARTITION SALE AND DISTRIBUTION

Judicial Officer: The Honourable Justice
His/Her Honour Judge
[Master of the Supreme Court]

Date of application:[DD/MM/YYYY]

Application made by:[Party] [Name]

Date(s) of hearing [if any]:[DD/MM/YYYY]

Date of order:[DD/MM/YYYY]

Appearances:Solicitor/Counsel for the Plaintiff (s)
.....Solicitor/Counsel for the Defendant (s)
.....Solicitor/Counsel for [Other Parties]

Recitals [if any]:

[By consent] **THE COURT ORDERS that:**

1. The land comprised in Certificate of Title Register Book Volume [No] Folio [No] and the improvements on it be sold and that the sale be conducted in such manner and upon such terms and conditions and by such licensed land agent or agents as may be agreed upon between the parties.
2. In default of agreement by the parties the land and improvements be sold by public auction in accordance with the conditions of sale for auctions approved by The Real Estate Institute of South Australia Inc by such auctioneer and at such reserve price as may be agreed upon between the parties or in default of agreement as may be determined by a Master on the application of either of them.
3. The costs of advertising the sale by auction be limited to the sum of \$[Amount].
4. If the land and improvements are not sold at the auction or within such further time after the auction as the auctioneer may have the sole right to sell the parties may nominate one land agent for the purpose of arranging a sale by private treaty at the price and upon such terms and conditions as may be agreed upon between them or in default of agreement as may be determined by a Master on the application of either of them.
5. The net proceeds of the sale of the land and improvements in any manner specified above after the deduction of all proper expenses and the payment of the amount due under any mortgage secured over the land be paid into Court to the credit of this action in an account to be entitled "No [Action No] of [Year] '[Name (s)] v [Name (s)]' - Proceeds of Sale of Land" there to abide the further order of the Court.
6. Either party may bid at the auction and upon becoming the purchaser of the land shall pay into Court one half of the net proceeds of the sale.

- 7. A sealed copy of this order be served upon the selling agent before or immediately after the sale or upon such other person who may be holding the proceeds of sale and upon that person paying the net proceeds into Court, such person be discharged from any further liability to account to the parties for the proceeds of sale.
- 8. [*Costs*].
- 9. Further consideration of the summons be adjourned.
- 10. The parties may apply for further orders and directions.

[Other text, if applicable]

[Fit for Counsel, if applicable]

[Reproduction of Court Seal] This order is authenticated by.....
for Registrar

Computer File Reference.....

Note: Applications for partition, sale and distribution are dealt with in the ordinary jurisdiction of the Court, not the Land and Valuation Division.