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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL (L) No. 845 OF 2015
IN
TESTAMENTARY SUIT No. 12 OF 1999

Dilip Laxmichand Anand ...Appellant
Vs.
Pradeep Kumar Anand and Ors. ...Respondents

Mr. Prateik Parija I/b Probus Legal, for the Appellant.
Ms. Zubin Behramkamdin I/b M. G. Gawde, for Respondent No.1.
Mr. R. J. Mane, AGP for Respondent No. 2.

CORAM : V. M. KANADE &
REVATI MOHITE DERE, JJ.

DATE : NOVEMBER 18, 2015

P.C. :

1. The learned counsel for the Respondents has raised a preliminary objection in respect of the cause title of this appeal. It is submitted that the State of Maharashtra and State Bank of Patiala are not the necessary parties since they are not the parties to the Probate Petition.

2. In our view, it would be appropriate if a direction is given to the Appellant to delete the name of Respondent Nos. 2 and 3 from the array of the parties and add the brothers as Respondent Nos. 2 and 3.

3. Leave to amend is granted. Amendment to be carried out within two weeks.

4. The grievance of the Respondent is that he had filed FIR in respect of the Will which was executed by the deceased. The Assistant Government Pleader has filed an application before the Learned Single Judge seeking permission to take original Will for further investigation. It is submitted that the Learned Single Judge has declined to accept the request made by the learned AGP and has directed the Investigating Officer and the Handwriting Experts to take photographs of the Will after taking permission from the Prothonotary and Senior Master.

5. It is submitted that the Additional Chief State Examiner of Documents, C. I. D. Pune Maharashtra State had written a letter dated 23.9.2015 asking the Prothonotary to hand over the copy of the Will for further investigation since scientific equipments which are used for examination cannot be removed from the office of the Forensic Laboratory. It is submitted that the Learned Single Judge has also declined to grant the said request.

6. In our view, there is no reason to interfere with the said order passed by the Learned Single Judge. Appeal, in our view, itself is not maintainable since it is an interlocutory order. It is always open for the Forensic Laboratory to follow the procedure mentioned in the order passed by the Learned Single Judge dated 23.6.2015 and later on if charge-sheet is filed and the trial is proceeded seek production of the

original documents after issuance of proper summons. Reserving the right of the Appellant to file appropriate proceeding as per the direction given by the Learned Single Judge in his order dated 23rd June, 2015 and or take out other proceedings in accordance with law, Appeal is dismissed.

[REVATI MOHITE DERE, J.]

[V. M. KANADE, J.]