

A.No.4010 of 2019
in
C.S.No.449 of 2017

R.SUBRAMANIAN.J.,

This application has been filed for inclusion of certain properties, which according to the plaintiff formed part of the estate of the deceased K.M.Ayyanathan, which have been omitted to be included in the original plaint.

2. A counter affidavit has been filed by the 1st respondent claiming that the deceased K.M.Ayyanathan died leaving a Will bequeathing the properties to her and some of the properties which are now sought to be included belong to her individually. Therefore, the plaintiff has no right to seek partition during her life time.

3. These questions will have to be decided at the time of trial. It is claimed that the properties belong to the estate of deceased K.M.Ayyanathan and the plaintiff has to establish his claim. Inclusion of properties will not cause any prejudice to the defendants inasmuch as the defendants can always file additional written statement setting up their claim.

R.SUBRAMANIAN.J.,

dsa

4. Hence, this application is **allowed**. The learned counsel for the plaintiff to carryout amendments and file amended copy of the plaint by 08.07.2019.

5. It is stated by the counsel for the 1st defendant that the executor of the Will has filed an Original Petition in OP.No.452 of 2018 seeking Probate of the Will left behind by the deceased K.M.Ayyanathan. The Registry is directed to post the Original Petition along with this suit on **08.07.2019**.

dsa

24.06.2019

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