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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION

INTERIM APPLICATION NO.485 of 2021
IN
TESTAMENTARY SUIT NO.34 OF 2011
IN
TESTAMENTARY PETITION NO.890 OF 2010

State of Maharashtra ... Applicant
In the matter between
Gautam Ratan Sonawane ...Plaintiff

Versus

Surendra Karsonlal Dalal ...Defendant

WITH
INTERIM APPLICATION NO.500 OF 2021
IN
TESTAMENTARY SUIT NO.172 OF 2014
IN
TESTAMENTARY PETITION NO.1180 OF 2014

State of Maharashtra ... Applicant
In the matter between
Tushar Bhagwan Khaire ...Plaintiff

Versus

Kunjalata Rajendra Shah & Anr. ...Defendants

Mr. E.A. Sasi with Manish Gaikwad for Plaintiff in TS No.15 of 2011 and for Defendant in Suit No.172 of 2014.

Mr. Gaurav Chaubey i/b. R. Chaubey for Plaintiff in TS No.172 of 2014.

Mr. Himanshu Takke, AGP for Applicants in IA No.485 of 2021 and IA No.500 of 2021.

Mr. Manish Upadhyay, AGP for State.

Mr. D.R. Mishra for Defendant in TS No.15 of 2011.

CORAM : R.I. CHAGLA J

DATE : 20 October 2021

ORDER :

1. Heard the learned Advocate appearing for the Applicant in both the Interim Applications.

2. By these Interim Applications, the Applicant has sought for directions that the learned Prothonotary and Senior Master of this Court to handover original two Wills dated 15th December, 2005 and 24th December, 2005 of deceased Ashrumati Bhogilal Dalal to the Chief Government Handwriting Examiner C.I.D., Maharashtra State, Pune for examination, comparison and also for appropriate report on the said documents. In the alternative the Applicant has sought for direction to the Chief Government Handwriting Examiner C.I.D., Maharashtra State, Pune or his subordinate officer for examination and comparison of both Wills of the deceased Ashrumati Bhogilal Dala which is in possession of the Prothonotary and Senior Master.

3. Having considered the submissions in the Interim Applications as well as the statement of the learned AGP for the Applicant - State who states that there are criminal proceedings which are pending being C.R. No.184 of 2019 under Sections 420, 465, 467, 468, 471 and 34 of the IPC and which complaint is under investigation. It would be necessary to examine the original Will and compare the original Will dated 15th and 24 December, 2005 of the deceased Ashrumati Bhogilal Dalal and this can be done in the office of the Prothonotary and Senior Master. He has therefore, pressed for relief in terms of prayer clause (b) of the Interim Applications.

4. Having considered the submissions of the learned AGP for the State and that investigation is pending in C.R. No.184 of 2019, it would be appropriate to grant prayer clause (b) in paragraph 9 of the Interim Applications. Prayer clause (a) cannot be granted. Hence the following order:-

(i) The Chief Government Handwriting Examiner C.I.D., Maharashtra State, Pune is permitted to examine and compare the original Wills dated 15th and 24th December, 2005 of the deceased Ashrumati Bhogilal Dalal in the office

of the Prothonotary and Senior Master of this Court. The Applicant shall give 48 hours prior notice to the office of the Prothonotary and Senior Master as well as parties to these proceedings.

5. Both the Interim Applications are disposed of in the above terms.

[R.I. CHAGLA J.]