

A.No.1289 of 2021
in
OP No.612 of 2020

R.PONGIAPPAN, J.

This application has been filed for appointment of an Advocate Commissioner to examine the witnesses in O.P.No.612 of 2020 namely the petitioner and the 1st attesting witness B.Sundari at her residence i.e. Flat No.11, Vaishali No.17, Dr.Nair Road, T.Nagar, Chennai – 600 017 and to their record evidence.

2. It is the case of the applicant that she is the Executor appointed under the Registered Will dated 05.06.2019 and a friend of Late Mrs.Saroja V.Guruswamy. During her life time, she had the acquired immovable properties as mentioned in the Original Petition. For grant of probate, the applicant herein filed the Original Petition. The Will dated 05.06.2019 has been attested by the witnesses viz., B.Sundari and G.S.Komal. The 1st attesting witness B.Sundari has filed her affidavit. However, the 2nd attesting witness did not come forward to file her affidavit. The 1st attesting witness is 86 years old. She has undergone a Hip replacement surgery on 10.08.2020

and is bedridden. Due to her health condition, the 1st attesting witness is unable to walk and finds it difficult to come to Court to give her evidence. Further, the applicant herein, who is the petitioner in O.P.No.612 of 2020, is also aged 70 years and considering her age, present health condition and also present Covid 19 Pandemic situation, the applicant is praying this Court to appoint an Advocate Commissioner to examine the petitioner and the 1st attesting witness B.Sundari at her residence i.e. Flat No.11, Vaishali No.17, Dr.Nair Road, T.Nagar, Chennai – 600 017, to record their evidence, by way of proof affidavit and to produce the same before this Court.

3. Considering the old age and the health condition of the applicant herein as well as the 1st attesting witness B.Sundari, who has also underwent a Hip replacement surgery on 10.08.2020 and also considering their present health condition and present Covid 19 Pandemic situation, this Court is of the view that it is just and necessary to appoint an Advocate Commissioner to examine the petitioner and also to visit the residence of the attesting witness B.Sundari to examine and record their evidence.

4. Accordingly, this Court hereby appoints

Mr.P.Navaneethakrishnan, learned counsel, having office at No.304, Additional Law Chambers, High Court Buildings, Chennai [Mobile Nos.9444119327 / 9094018428], as an Advocate Commissioner for the above said purpose. The remuneration of the Advocate Commissioner is fixed at Rs.20,000/- (Rupees Twenty Thousand Only) and same shall be paid by the applicant directly to the Advocate Commissioner. The Advocate Commissioner shall visit the place of the Attesting Witness after proper notice to her, also the petitioner and respondents and he also shall record the evidences of the petitioner viz., Renuka K.Narasimhan and the 1st attesting Witness B.Sundari and mark documents, if any. The advocate Commissioner shall file his report along with the depositions of P.W.1 and P.W.2 with exhibits if any, on or before 16.04.2021 before this Court.

5. In view of the same this Application is ordered. Registry is directed to post the Original Petition on 16.04.2021.

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Note : Issue Order copy by 26.03.2021.

25.03.2021

R. PONGIAPPAN, J.

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