



A.No.4397 of 2022

C.V.KARTHIKEYAN, J.

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The application has been filed seeking permission to record the evidence of B.Ramamoorthy, even before the Trial has formally commenced.

2. The said B.Ramamoorthy is one of the attestors of the Will of R.Sulochana, probate of whose Will is sought in O.P.No.981 of 2007.

3. The 2nd to 5th respondents in their counter, questioned the Will and seek to contest grant of Probate. They have also independently filed C.S.No.432 of 2008, for declaration that they are the owners of the property and for declaration that the Will which is the subject matter of O.P.No.981 of 2007 is not valid and is not binding on them.

4. It would only be appropriate that the Original Petition is converted into the Testamentary and Original Suit.

5. The learned counsel had entered appearance on behalf of the 2nd to 5th respondents and stated that he would file a formal search memo to examine whether a caveat had been filed, necessitating conversion of the present Original Petition into a Testamentary and Original Suit.

6. In the meanwhile, without affecting the rights of the parties in C.S.No.4302 of 2008 and certainly without affecting the stand taken in the petition or in the counter affidavits in O.P.No.981 of 2007, since it is stated



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that the attesting witness B.Ramamoorthy, an Advocate aged 81 years old and there is some apprehension owing to such advanced age that he should be examine out of time, permission is granted. Let the chief examination be done orally. Permission is granted for cross examination also.

7. The matter is posted before the learned Master for this particular purpose on 17.10.2022.

8. It is hoped that after chief examination is recorded, cross examination would be done and completed on or before 04.11.2022. It is again mentioned that this procedure is adopted only owing to the age and physical condition of the said witness and the arrangement is without prejudice to the rights in the Civil Suit and in the Original Petition and if at a later stage, further questions are to be asked, then necessary application to recall may also be filed and shall be considered by examining the status as on that day.

10. The Application stands allowed.

30.09.2022

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