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A.No.3195 & 3196 of 2022
T.O.S.No.5 of 2006

A.Nos.3195 and 3196 of 2022
in T.O.S.No.5 of 2006
C.S.No.283 of 2008 and
C.S.No.441 of 2010

G.CHANDRASEKHARAN.J.,

A.No.3195 of 2022 is filed to reopen the plaintiff side evidence in TOS.No.5 of 2006 and A.No.3196 of 2022 is filed to recall Mr.V.K.Narasimhan/P.W.1 for further cross-examination by learned counsel for the defendants 2 to 4.

2.The learned counsel for the applicants/defendants 2 to 4 submitted in the affidavit filed in support of the application that P.W.1 has to be further cross-examined to elicit the truth about the averments he has made with respect to the Will. Therefore, it is necessary to recall P.W.1 for further cross-examination.

3.Both the applications are strongly opposed by the learned counsel for the respondents stating the reasons that, P.W.1 was examined on 22.06.2015. Thereafter, he was cross-examined by M/s.R.Lakshmi Narasimhan, learned counsel for defendants 2 to 4. The cross-examination was done on 03.09.2015, 01.03.2016, 16.03.2016 and again on 29.03.2016. The cross-examination of P.W.1 was done spreading over a period of seven months. Subsequently, P.W.2 was examined and then plaintiff evidence was closed. D.W.1 and D.W.2 were also examined on the side



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of the defendants.

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4. When the matter was posted for arguments, an application was filed for recalling P.W.2 for further cross-examination. Despite opposition by the respondents that application was allowed. P.W.2 was further cross-examined on 05.08.2019. Thereafter, the matter was posted for arguments. The respondents counsel argued the case on 27.07.2022. At this stage, this application is filed.

5. Considered the rival submissions and perused the records.

6. This TOS is of the year 2006. P.W.1 was cross-examined for a period of seven months atleast on four days. Subsequently, P.W.2 was examined, witnesses on the side of the defendants were also examined. When the matter is pending for arguments, especially when the respondent's counsel advanced his arguments, this application is filed. Allowing this application at this stage will negate the effect of cross-examination done already. Not only that, repeated filing of application for recalling witnesses and entertaining them will result in falling up of lacuna and that would ultimately undo the effect of cross-examination. Considering the fact that the petitioners were already given sufficient opportunity for cross-examination and they had also cross-examined P.W.1, this Court finds that this petition is filed only to



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protract the proceedings and therefore, both the applications are liable to be dismissed. Accordingly, applications in A.Nos.3195 & 3196 of 2022 are dismissed.

7.Post the suit on 20.09.2022, for continuation of arguments.

13.09.2022

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