



A.No.3504

A.No.3504 of 2022 in
T.O.S.No.23 of 2003

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G.CHANDRASEKHARAN,J.,

A.No.3504 of 2022 is filed to receive additional documents filed along with the additional proof affidavit.

2.The learned counsel for the applicant submitted that respondent projected an unregistered Will dated 09.03.2002 and filed T.O.S.No.36 of 2006 to prove and for the grant of Letters of Administration in his favour in respect of L.A.O.P. compensation amount. The genuineness of the Will is specifically disputed by the applicant. The signature of the deceased in the alleged Will is different from his previous admitted signatures. Document Nos. 1 to 9 to the Judges summons contain the signature of the testator. These documents had been produced for the minimum purpose of showing signature of the testator. The suit in O.S.No.133 of 2008 was filed by the plaintiff and the respondent against the third parties. In the said suit, the respondent/plaintiff admitted the registered Will dated 30.06.2000 which is subject matter in this T.O.S as a last Will of the testator. Therefore, these documents are necessary for proving the case of the applicant.

3.The learned counsel for the respondent objected this application on the ground

<https://www.indiancourts.com> that applicant wants to produce these documents for the purpose of comparison with



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the disputed signature in Ex.P2 Will. Ex.P2 is a certified copy of the Will. Original Will has not been produced. Document Nos.1 to 9 are also certified copies and no original documents are produced. Applicant cannot seek the signature in the xerox copies of the document to be compared with the copies of the document. Document Nos.10 to 13 have no relevancy to the case. Therefore, this application has to be dismissed.

4.In reply, the learned counsel for the applicant submitted that the Court under Section 73 of the Indian Evidence Act is competent to compare the signature. Though document Nos.1 to 9 are produced for comparison purpose, if the situation warrants applicant is prepared to summon the original documents for the purpose of comparison of the signature of the testator in the disputed Will with the admitted signature in the documents referred above. So far as, document Nos.10 to 12 are concerned, it is submitted that these documents are necessary to show that the respondent had already admitted the attestation and execution of the Will in question. Taking all these factors into consideration, this Court in the nature, facts and circumstances of the case where execution of the impugned Will is disputed, considers the production of these documents necessary for proving the case of the applicant, Therefore these applications are allowed.



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