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A.No.4220 of 2022

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in
TOS.No.83 of 2013

G. CHANDRASEKHARAN, J.

This application has been filed to receive additional documents listed in the Schedule for sending it to the handwriting expert for comparison of the disputed Will dated 30.08.1999.

2. It is submitted by learned counsel for the applicant that these documents were accessed only recently and these documents contain admitted signatures of the Testator. They are required for examining the signature of the testator in the disputed Will for reaching a just decision.

3. The learned counsel for the respondent opposed this application on the ground that applicant has not filed any documents when filing the petition. Subsequently, application for appointment of an Advocate Commissioner was filed and Advocate Commissioner was appointed. Again Application No.1378 of 2022 was filed to receive additional documents for the purpose of comparison. Then again this application is filed. The respondents are very aged and that the trial in this case is in midway. The applicant is repeatedly



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filing these applications only with a view to drag the proceedings. Therefore, he prays for dismissal of this application.

4. Considered the rival submission and perused the records.

5. It is clear from the submission of the learned counsel for the parties that examination of the witnesses in TOS.No.83 of 2002 was completed and only thereafter, the application for appointment of an Advocate Commissioner for comparing the signatures in the disputed Will was filed, followed by other applications, including this application for receiving additional documents for the purpose of comparison. Considering the nature of disputed Will and respondent's serious dispute on the execution of the Will by the testator, this Court is of the considered view that production of these documents, which came into existence during the period of 1991 to 2000, is necessary for the purpose of comparison of the signature of testator in the disputed Will.

6. When the matter was taken up for hearing on 29.09.2022, this Court directed the learned counsel for the applicant to produce original documents and if the original documents are not available, reasons should be given for non-availability of the documents. Today, the learned counsel for the applicant



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submitted that applicant is in possession of all the original documents sought to be produced. Therefore, this Court is inclined to allow this application.

Applicant is directed to handover all the original documents to the learned Commissioner, for the Commissioner to send it to the handwriting expert for comparison.

7. The Commissioner is directed to expedite the process of handing over the original Will and the documents produced for comparison to the handwriting expert, within a period of two weeks from today.

02.11.2022

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