



WEB COPY



A.No.4617 of 2022 in T.O.S.No.11 of 2022

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G.CHANDRASEKHARAN, J.

A.No.4617 of 2022 in T.O.S.No.11 of 2022 is filed to permit the applicant to implead her as 5th defendant in the above T.O.S.No.11 of 2022.

2.The learned counsel for the applicant submitted that the applicant herein is the 5th respondent in O.P.No.882 of 2019. The Will alleged to have been executed by her late father in law on 22.01.1997 is a fabricated document and not executed in the manner known to law. He had earlier executed a Will dated 01.09.1994, in and by which, he bequeathed his property in favour of his three sons, namely, the respondents 2, 4 & 7 and his minor grand daughter Sasikala, daughter of his predeceased son M.Kabali. The earlier Will has not been referred to in the subsequent Will dated 22.01.1997 and consequent to the death of her husband M.Kabali, and her only daughter Sasikala, the applicant is entitled to the property that would fall to the share of M.Kabali or Sasikala. Therefore, she is a proper and necessary party in the TOS and impleading her is necessary.



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3.The learned counsel for the respondent/plaintiff objected this application on the ground that the applicant has not filed caveat and therefore, she was not shown as defendant in the suit.

4.Considered the rival submissions and perused the records.

5.It is seen from O.P.No.885 of 2019 that there are eight respondents including this applicant. The applicant was shown as 5th respondent. The respondents who had filed caveat were alone shown as defendants when the O.P. was converted as TOS. It is not in dispute that this applicant has not filed caveat. However, she now contends that the impugned Will is a fabricated Will and there is yet another Will and that is prior to the impugned Will. She is entitled to the share in the property on the death of her husband and daughter.

6.In the said circumstances, this Court is of the considered view that this applicant is a proper and necessary party for adjudicating TOS No.11 of 2022. Accordingly, this application is allowed. The plaintiff is directed to take steps for carrying out the appropriate amendment in the plaint. Post the



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matter after two weeks.

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