



A.Nos.5039 and 5040 of 2022

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in

TOS.No.6 of 2021

G. CHANDRASEKHARAN, J.

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Application No.5039 of 2022 is filed seeking permission to the defendant/applicant to recall PW2 for further cross examination.

2. Application No.5040 of 2022 is filed for reopening the evidence of the plaintiff.

3. It is submitted by the learned counsel for the applicant/defendant that the suit was filed for grant of probate of the Will dated 03.02.2020 alleged to have been executed by the father of the applicant namely Mr.S.Subramanian. The father of the applicant could not have executed the Will in a sound disposing state of mind.

4. He further submitted that the plaintiff was examined as PW1 and Ms.Reena Christie was examined as PW2 as attesting witness. Certain crucial facts relating to the alleged Will, the execution there of and the relationship and affairs between PW1 and PW2 have subsequently come to light necessitating further cross examination of PW2. Therefore, this application.



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WEB COP 5. These applications are strongly opposed by the learned counsel for the respondent stating that these applications are abuse of process of law and the applicant is trying to take advantage of the present circumstance. PW2 was cross examined on 08.06.2022 extensively by the learned counsel for the applicant/defendant at length. PW2 was originally employed with the Institution run by the respondent. However, recently it was found that PW2 was involved in various malpractices and has swindled huge amount of money from the Trust. When it came to light, Police complaint was lodged against PW2 by the respondent in his capacity as a Managing Trustee of the School. The applicant having come to know about this dismissal of PW2 from the services of the School, cleverly filed these applications without assigning any proper reasons.

6. Considered the rival submissions of the learned counsel for both sides.

7. This Court perused the evidence of PW2, especially the fact that PW2 was extensively cross examined by the applicant as attesting witness and she was asked nearly about 81 questions through her cross examination. After the completion of the evidence on the side of the plaintiff in TOS.No.6 of 2021 and when the matter is pending for examination of DW2, these applications are filed.



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WEB COP 8. This Court finds from the submission of the learned counsel for the respondent that the applicant is taking advantage of the fact that PW2 was dismissed from the Services of the School run by the respondent and also the fact that Police complaint was also registered against her by the respondent. These applications are filed to get some evidence that may be useful to the applicant from PW2 due to the strained relationship between PW2 and respondent. The timing of filing these applications and also the stage at which these applications are filed supports the submissions of the learned counsel for the respondent. There is no merit in these applications. Therefore, this Court is inclined to dismiss these applications.

9. Registry is directed to send the matter to the learned additional Master-I for continuation of recording evidence.

10. Parties are directed to appear before the learned additional Master-I on 12.12.2022.

02.12.2022

gd

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